

the owner himself; but it follows logically that, if the premises are in the occupation of a tenant, he ought not to get an unfair advantage which he is not entitled to get under section 247 (*now* 250); that is to say, if the tenant is in occupation, whether the connection with the water-works is made at his instance or at the instance of the Chairman, the tenant ought to pay for it; and I submit that that is both good sense and good law."

The Hon'ble MR. BAKER said:—"I think there is some practical advantage in this amendment. If section 252 (*now* 253) were to be left as it stands, and if, in a case where the Chairman causes the connection to be made on his own motion, no pecuniary liability devolved upon the tenant, I think it is probable that acute tenants would succeed in inducing the municipal officers to suggest to the Chairman that a connection ought to be made; and, by doing that, they would ensure the connection being made, and at the same time they would avoid paying their fair share of the expense to which they should have been liable had they themselves taken action under section 247 (*now* 250). Therefore, I think, whether action is taken under section 247 (*now* 250) or under section 252 (*now* 253), it is desirable that the tenants in either case should be liable for the same payment. That is the effect of this amendment."

The Hon'ble MR. BOLTON said:—"I am afraid I cannot support this amendment, because it might lead in many cases to no action being taken by the Chairman where he would otherwise have taken action. It seems to me that, with such a proviso, the occupier, who may be less able to meet the cost of the connection than the owner, will not press for it, however deniable it may be on sanitary grounds. This objection would be met if we added after the words 'the occupier shall be bound' the words 'if the Chairman so directs.' The Chairman could then discriminate between cases in which the occupier or the owner should pay."

The Hon'ble MR. BUCKLEY said:—"I do not believe, Sir, that this section will be used once in five years, and I do not think it at all an important matter."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I would just point out that the difficulty to which the Hon'ble the Chief Secretary alludes can hardly arise, because we have already added a proviso to the effect that the Chairman cannot take action until he is satisfied that the person who is called upon to carry out the necessary works has the means to do so."

The Hon'ble MR. BAKER said:—"I think the Hon'ble the Chief Secretary's recommendation is a good one, and that it would meet cases in which it is desirable on sanitary grounds to have recourse to this section. Such cases may possibly arise, and I think we would do well to accept that slight modification."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"My contention is that the occupier ought to be ordinarily liable, and that only in exceptional cases he ought to be let off."

The Hon'ble MR. OLDHAM said:—"I confess that I am unable to give an intelligent vote on this subject, which is an extremely intricate one, if this amendment is to be made now. I think it would be well to postpone the matter until we know the wording upon which we are to vote."

The motion was then put in the amended form and agreed to.

#### SECTION 283.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that, after proviso (b) to sub-section (1) of section 265C [*now* proviso (ii) to sub-section (1) of section 283], the following be inserted, namely:—

"(c) if, when the Chairman demands payment of any expenses under section 627 (*now* 602), his right to demand the same, or the amount of the demand, is disputed, the power to cut off or turn off water to secure payment of such expenses shall not be exercised unless and until the demand or part thereof is upheld on a reference made to a Court under section 639 (*now* 616)."



He said:—"It will be in the recollection of the Council that in section 265C (*now* 283), sub-section (1), clause (c), is incorporated a provision of a very stringent character. It empowers the Chairman to cut off the connection between any water-works of the Corporation and any premises if in the case of a *bustee* the owner, or in any other case the occupier, of the premises fails for fifteen days after the due presentation of a bill or the due service of a notice to pay any sum due to the Corporation from him or in respect of such premises. I pointed out to the Council on the last occasion that under section 639 (*now* 616) there might be a dispute as to whether the sum was due at all or not. That section provides that 'if, when the Chairman demands payment of any expenses under section 627 (*now* 602), his right to demand the same or the amount of the demand is disputed, the Chairman shall refer the case for the determination of the Court of Small Causes, or, if the amount involved exceeds Rs. 2,000, to the High Court.' I pointed out that it could not have been intended that, pending the hearing of a case either in the Small Cause Court or the High Court, the Chairman should proceed under this section. The Hon'ble Member in charge of the Bill agreed in this view of the matter, and I trust that there will be no opposition to this extremely moderate measure of relief."

The Hon'ble MR. BAKER said:—"I agree with the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I thankfully recognise the small instalment of a much larger concession which ought to have been granted in connection with this matter. On the last occasion when I called the attention of the Council to this proviso, I tried to impress upon the Council that the enactment of a provision like this was likely to entail upon the poorer classes of the ratepayers very great hardship. Unfortunately my hon'ble friend in charge of the Bill was unable to accede to my wishes, but I am now thankful that he has accepted the amendment proposed by the Hon'ble Dr. Asutosh Mukhopadhyaya."

The motion was then put and agreed to.

#### SECTIONS 325, 574 AND 575.

The Hon'ble MR. BAKER moved—

(1) that the word "water-course" be inserted after the word "tank" in line 8 of sub-section (1) of section 311A (*now* 325), and that the words "or water-course" be inserted after the word "tank" in line 4 of sub-section (2) of the same section;

(2) that the word "water-course" be inserted after the word "tank" in column 2 of the entries relating to section 311A (*now* 325) in the tables annexed to sections 602 and 603 (*now* 574 and 575).

He said:—"With your permission, Sir, I will take these two amendments together. They both relate to the same matter, and are really consequential. It will be remembered that yesterday, at the instance of the Hon'ble Babu Surendranath Banerjee, the word 'water-course' was inserted in section 311A (*now* 325) in order to meet the case of Tolly's Nala. That being so, we must also insert the word 'water-course' in the eighth line of sub-section (1) of section 311A (*now* 325), and also in the penalty clauses of sections 602 and 603 (*now* 574 and 575)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I beg to support the amendments."

The motions were put together and agreed to.

#### SECTION 370A.

The debate on the motion by the Hon'ble BABU SURENDRANATH BANERJEE and the Hon'ble MR. APCAR that section 370A be omitted was resumed.

The Hon'ble Mr. Baker said:—"Yesterday the learned Legal Remembrancer made the suggestion that in clause (a) of this section (370A), in place of the first words of that section which are as follows, 'to confer and impose mutual rights and obligations upon owners,' &c., the following words should be substituted: 'to define and determine the mutual rights and obligations of owners,' &c. The effect of that is considerably to restrict the power of the Local Government in making rules to deal with this vexed question of party walls. Instead of conferring and imposing rights, the Local Government will have only to define and determine the mutual rights and obligations of owners, by which I understand rights that already exist either by some statute or by custom, or by the operation of any law. Well, Sir, I have thought over this matter, and I had the advantage of receiving the detailed opinion of the Hon'ble Mr. Handley, and I have also consulted the Chairman of the Corporation. I think there is a certain amount of risk in accepting this modification, because if we limit the power of the Local Government to merely defining and determining what the existing rights are, then, as this matter is one of real difficulty and intricacy in this country, it will probably be open to the Courts and to acute lawyers to argue that the rules which the Local Government make are *ultra vires*, because they may possibly go slightly beyond the defining and determining of rights, and might also do something in the way of creating new rights.' Therefore, I think there is a certain risk. But, after carefully considering the matter with Mr. Bright, we both came to the conclusion that it was better to take that risk, because all this is a matter of novelty in this country, at all events in Calcutta; and it looks rather an extreme power to confer upon the Local Government (not by legislation, but by mere power of making rules) to authorise them to confer or create new rights. Therefore, in deference to the views put forward yesterday by the Hon'ble Babu Surendranath Banerjee and the Hon'ble Mr. Apar, the Council will, I think, do well to accept the amendment proposed by the learned Legal Remembrancer."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"My difficulty in connection with this matter is not over even after the explanation given by the Hon'ble Member in charge of the Bill. I am afraid this difficulty is somewhat aggravated by the explanation. If the Local Government 'define and determine,' it seems to me that that is a matter of supererogation on the part of the Local Government. It is the function of the Courts to define and determine. I did not know it was the function of the Government to define and determine. Then, Sir, I have a further difficulty. If you empower the Local Government to define and determine, if you leave it open to acute lawyers to argue that you have been defining and determining beyond the rights and obligations accorded to you by statute, it seems to me, Sir, that, in trying to get over our present difficulties, we are likely to be landed in further difficulties. I suggest that the simplest and the safest course is to omit the section altogether, and keep things as they are. We shall, I am afraid, be placing ourselves in a difficult, and it may be in a false, position. Then, Sir, I do not consider this section is wanted; nobody wants it so far as I know, except perhaps my hon'ble friend Mr. Buckley, who I believe is very anxious that it should be inserted in the Bill. I have, Sir, great sympathy with the Hon'ble Mr. Buckley's motives, but sometimes even legislators with the best of motives make mistakes, and it does seem to me, with all the respect I feel for the Hon'ble Member, that it would be a mistake to have this section in the Bill in any shape or form, and it would be the greatest mistake of all to have it in the form now proposed by the Hon'ble the Legal Remembrancer."

The Hon'ble MR. BUCKLEY said:—"I am not quite certain, Sir, whether I have fully understood the exact meaning of the words the Hon'ble Mr. Baker suggests should be now put into this section. It seems to me that, if I do understand them, they entirely destroy the whole benefit which would otherwise be derived from the establishment of these rules. It seems to me that the effect of the wording which is now proposed would be to prevent the beneficial effect which these rules are intended to have in connection with the construction of party walls. The main thing in connection with the proposal is that a man should have a right to build a party wall partly on his own and partly on his



neighbour's land. That is the essence of the whole business, and the arrangements we have to make must be such as will give either party a right, with a view to the mutual advantage of both, to utilize a portion of his neighbour's and give up a portion of his own land. Now, if you are only going to define and determine the existing rights, you define and determine a line, a line upon which neither party can build. I really do not understand what benefit will be derived from that. I do not of course pretend to be a lawyer, but to my mind the proposal takes away the gist of the whole matter."

The Hon'ble MR. OLDHAM said :—"I am exactly in the same position as my hon'ble friend who has just sat down, and I am in full agreement with the first part of the remarks of the Hon'ble Babu Surendranath Banerjee. Now I will give you a concrete instance. We are going to extend the Stamps and Stationery Office. It is a very large office now, and we going to extend it still further. We want to use a party wall between the office and Messrs. Ahmuty and Company's building. I do not see how the power of the Government to define and determine the rights of the parties in this connection will help us in any way. What we want to have is a wall of our own and to be able to utilise a part of their land for the purpose."

The Hon'ble MR. BAKER, in reply, said :—"I will just add one word. Of course it is understood that under section 596 (now 568) all rules framed under the section can only be made subject to their previous publication, so that everyone whose rights are in the least likely to be affected under these rules will have ample opportunity of considering them, and giving his opinion upon them before they come into force."

The Hon'ble MR. APCAR said :—"The Hon'ble Mr. Buckley's intention I understand to be to have rules which shall come into operation in connection with buildings to be erected in future. My view about this particular section is this, that it gives power to the Executive Government to create rights with reference to buildings that are now in existence, with regard to which rights and obligations already exist, and by rules to interfere with the rights and obligations of parties. If there are to be rules to be made at the discretion of the Executive Government, let them be made to affect only buildings that are to come into existence in the future. But what I object to is, that power should be given to the Local Government to make rules which shall interfere with the rights of private individuals. If you create rights on one side, you may take away rights from another, so that there would be a serious interference regarding the rights of individuals."

THE Hon'ble MR. HANDLEY said :—"Sir, I should like to say a few words upon this amendment, because I do not think my hon'ble friend Mr. Buckley has quite understood the legal difficulty that I pointed out. First, I understood the Hon'ble Member to say that in the case of a party wall the man can build on the land of his neighbour without his permission. Well, I do not know that there is any law under which you can do that at present. I am not aware of any. If the two neighbours mutually agree, the general rule is that the party wall is built up to the boundary land on either side. The only thing is that by mutual agreement *A* might pay half the share and *B* the other half, but I do not understand that if *A* chooses forcibly to build the party wall that he could encroach upon *B*'s land without his permission, and I do not know that any rules that would be passed under this Act could authorise such a proceeding. Take the case which the Hon'ble Mr. Oldham referred to in which the Government want to extend the Stamps and Stationery Office. Does the Hon'ble Member mean to say that the Government would take hold violently of the land of their next door neighbour and build a party wall?"

The Hon'ble MR. OLDHAM said :—"We could build a thinner wall without encroaching upon their land."

The Hon'ble MR. HANDLEY said :—"Of course, so long as you choose to keep it within your own boundary, you can do what you like."

The Hon'ble MR. BUCKLEY said:—"If you do that, you must have two walls."

The Hon'ble MR. HANDLEY said:—"The only thing is that it seems to me to make it less difficult than it was before these words were inserted. The words before were 'confer rights and impose obligations'. These words might interfere with the rights of private individuals, whereas if you define and determine you will have to proceed to a certain extent on case law, statute, custom, or whatever law exists, and you will endeavour to keep as far as you can within the law until you have a decision. After all, this matter will chiefly depend on the decision of the Courts. I venture to submit that the wording I have suggested is less likely to get you into trouble than the other one. Conferring of rights and obligations is a power which may be questioned at any time as being *ultra vires*."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"It seems to me that if we accept the section as amended we shall land ourselves in a hopeless difficulty. Let us examine the section closely. The section says that 'the Local Government may make rules to define and determine mutual rights and obligations of owners,' &c. To be defined and determined by whom? To be defined and determined by the Courts in accordance with the common law? Does it mean that these rules will create new rights or that they will simply declare rights which are already in existence? If you have rules to define and determine rights, you may even be understood to refer to rules of procedure by which the process of definition and determination is to be carried out by the Courts of Justice."

The Hon'ble MR. OLDHAM said:—"May I ask my hon'ble friend the Legal Remembrancer if it would be *ultra vires* for the Government to take the power to lay down the conditions upon which party walls could be built? That would partly meet the Hon'ble Mr. Apar's objection."

The Hon'ble MR. HANDLEY said:—"That is what this amendment is intended to convey."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I understand that these rules are to be enacted for the guidance of the parties interested and for the guidance of Courts of Justice in cases where the matter or subject in dispute is brought up for legal adjudication. I believe that is the object. Now, in accepting this section with the modifications proposed, I believe the Legislature will be encroaching upon the rights of the Judicature. It is impossible to conceive the equitable considerations on which these questions will have to be decided. Regard will have to be paid to the circumstances of each case, circumstances attending every particular building and things of that sort, which cannot be conceived beforehand. The elasticity of the Judicature in applying the principles of equity will be restricted if certain fixed rules be enacted by the Local Government, and I venture to submit that it will be very unwise to permit any such rules to be enacted, and it would be judicious to abandon this section altogether."

The Hon'ble BABU JATRA MOHAN SEN said:—"Even after the amendment proposed by the Hon'ble the Legal Remembrancer, I stick to my opinion expressed the other day. The object of this section will not only be to frame rules to define and determine the rights and obligations of parties, but I understand, from the explanation given, that they will have to be sought for from decided cases and from decisions of English Courts. These rights can only be defined by case law, I understand. If that be so, I do not see why we should define these rights (which are very complicated matters, and which have to be decided with regard to the circumstances of each case) by rules framed by the Executive Government. If it is desirable that any law is passed on this subject, I think the best means would be to gather the case law together and formulate these rules in the form of a Bill, which could then be properly discussed and passed into law hereafter. That cannot be done now, and this section, I am afraid,



will have to be abandoned. In fact, an enactment of this kind is not rightly introduced into a Municipal Bill. It is a separate matter altogether, and therefore I think it is much better to abandon this section and to legislate hereafter in case of need."

The Hon'ble Mr. BUCKLEY said:—"May I be allowed to explain to the Hon'ble Member who has just sat down that he is under a misapprehension. The rules in England are not a matter of case law, but they are clearly defined in the London Building Act, sections 87 to 101. That Act deals with all questions of party walls, and I may say that the chief of the regulations is that power is given to certain people to appoint arbitrators whose duty it is to deal justly with the rights of the various people. One of the rules has reference to what is called 'under-pinning,' that is to say, a man has got a house and the man next to him wishes to build another house, as I understand the Hon'ble Mr. Oldham wishes to do in the case of the Stamps and Stationery Office. Now, the law we are going to pass here says that if you build a house you must do one of two things—you must either build it in actual contact with the next house, or six feet or eight feet away from it. Now, if you are going to build it in direct contact with the next house, you must put your foundation under the other house, or you cannot get the walls together."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If you had plenty of space it would not be necessary."

The Hon'ble Mr. BUCKLEY said:—"I said, if you are going to build in direct contact, you must support your wall by putting your foundation under the other wall. The object of this section is to enable Government to make rules to grant certain rights to the parties, so that a party wall may be built to suit them both. If it is not possible legally to do what is proposed by the section as it now stands,—and I do not pretend to have a legal opinion,—then it will be impossible to carry out the theory underlying the question of the party wall."

The Hon'ble BABU JATRA MOHAN SEN said:—"May I ask if the rules are framed under the Act itself? If these rules are defined by the Act, I desire that they should be so defined by an Act here also."

The Hon'ble Mr. BAKER said:—"I would suggest, Sir, that this matter be allowed to stand over till Monday, and in the meantime I will endeavour to consider it further with my hon'ble friends Mr. Buckley, Mr. Oldham, the Legal Remembrancer, and one or two of the other gentlemen, if they are willing to assist us. My own feeling is that the wording of the section as it stands in the draft is best, and I accordingly prefer that to the wording proposed by the Hon'ble the Legal Remembrancer, because I feel with Mr. Buckley that the words 'define and determine' will not really help us."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I entirely agree with my hon'ble friend in his last remark, that is to say, I certainly think that the words 'define and determine' will not help us at all. As there appears to be such difficulty in framing a section which will meet the case, it will be far better to abandon the proposal altogether."

The Hon'ble Mr. BAKER said:—"I cannot agree with the Hon'ble Member's last remark, and I may mention with reference to what has fallen from the Hon'ble Mr. Apear that we are not going to deal with existing buildings. The section merely gives power to lay down rules with reference to the erection, maintenance, &c., of party walls in future. Now, there are hardly any party walls in Calcutta at the present time in the strict sense of the word; the only case likely to arise in respect of existing buildings is where there are two adjacent houses which the owners want to bring close together with one party wall between them. Now, in a case like that, the party wall would be new and the building would be old, and the rules would apply to the party wall only. That is probably the only kind of case that would come under the operation of the rules in connection with old buildings. If Your Honour is willing, I think,

under all the circumstances, it would be well to let the matter stand over until the 25th instant."

The further consideration of the motions was postponed till the next meeting of the Council.

#### SECTIONS 373, 374 AND 384.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the President, moved—

(1) that the following proviso be added to section 383 (*now* 373), namely:—

"Provided that the making of such order shall not in any case be delayed for more than thirty days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application;"

(2) that the following further proviso be added to section 384 (*now* 374), namely:—

"Provided also that the making of such order shall not in any case be delayed for more than thirty days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application;" and

(3) that the following proviso be added to section 400 (*now* 386), namely:—

"Provided that the making of such order shall not in any case be delayed for more than fourteen days after the Chairman has received all the information which he considers necessary to enable him to deal finally with the said application."

He said:—"Sir, I explained at length yesterday the grounds on which I wanted to fix a limit of time after the Chairman has received all the necessary information with regard to applications for a site for a building and the plan of the building. I wanted that there should be a definite limit of time within which the Chairman should communicate his approval or disapproval, and I ventured to suggest thirty days as the limit of time within which after he has received all the information he has to communicate his approval or disapproval. My hon'ble friend in charge of the Bill was good enough to accept the recommendation, and I hope the Council will accept it. The first part has reference to the site. The second amendment to section 384 (*now* 374) is consequential."

The Hon'ble MR. BAKER said:—"I have consulted the Chairman of the Corporation in this matter, and we consider that these amendments are reasonable and should be accepted."

The motions were put together and agreed to.

The last motions having been carried, the Hon'ble Babu Surendranath Banerjee, by leave of the Council, withdrew the following motions standing in his name:—

(1) that the words "or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the approval of the site" in lines 4, 5, 6 and 7 of section 383 (*now* 373), be omitted; and

(2) that the words "or within thirty days after the Chairman has been satisfied that there are no objections which may lawfully be taken to the grant of permission to execute the work," in lines 5, 6, 7, 8 and 9 of section 384 (*now* 374), be omitted.

#### SECTION 407.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 426 (*now* 407), line 3, after "thereto" be inserted "after hearing the objections of the owner (if any) and," and that the word "therein" in line 4 be omitted.

He said:—"This amendment, Sir, is a very small matter, so small as not to deserve the opposition of the Hon'ble Member in charge of the Bill. Section 425 (*now* 406) refers to the inspection of bustees by medical officers and the submission of reports and plans for improvement. Section 426 (*now* 407) lays down that 'the General Committee shall, within six months after the



receipt of such report, approve the standard plan annexed thereto, after making such modifications (if any) therein as they may deem proper.' My suggestion is that before the General Committee make any order under section 426 (*now* 407), they should give the owner an opportunity of being heard. The section, if amended according to my suggestion, would read as follows:—

'The General Committee shall, within six months after the receipt of such report, approve the standard plan annexed thereto after hearing the objections of the owner (if any) and after making such modifications (if any) as they may deem proper.'

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I just want to point out that this is the existing practice, although I do not suppose such a provision is to be found in the existing law. The Bustee Committee always make it a point, when orders of this kind are issued, to send notices to the parties whose properties are concerned, and they appear sometimes by counsel. Elaborate objections are sometimes urged, and the whole matter is enquired into. It is the practice at present, and I hope my hon'ble friend will embody it."

The Hon'ble MR. BAKER said:—"I have not the slightest objection."

The motion was then put and agreed to.

#### NEW SECTION.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion standing in his name that the following section be inserted after section 428 (*now* 409):—

'428A. An appeal shall lie to the Corporation against any orders passed by the General Committee under section 426 (*now* 407), section 427 (*now* 408) or section 428 (*now* 409).'

The Hon'ble BABU SURENDRANATH BANERJEE moved that the following section be inserted:—

'428A. An appeal shall lie to the Corporation against any orders passed by the General Committee under section 420 (*now* 401) or section 428 (*now* 409).'

He said:—"The General Committee in the first instance causes the bustee to be inspected by two officers; then these officers submit a report and a standard plan; then under section 426 (*now* 406) the standard plan has to be approved by the General Committee; then according to section 427 (*now* 408) the General Committee may cause a written notice to be served upon the owner or occupier of the huts to carry out the improvements proposed in the report. Then further the General Committee are empowered under section 428 (*now* 409) to carry out the improvement in default of the owners or occupiers. Sir, I do not want to interfere with the work while the General Committee are engaged upon it. I want to give the General Committee full powers to carry on the work without any sort of interference on the part of anybody, and then provide an appeal to the Corporation. Sir, the discretion of the General Committee or the executive vigour and energy of the General Committee are not in any way to be interfered with by my amendment as now modified. The General Committee have to appoint the inspecting officers; they are to issue orders; they are to call upon parties to execute orders; if the parties fail to execute the orders the General Committee have to do the work themselves. In this inspection and all other matters they are entirely independent, and I do not in the slightest degree seek to interfere with their discretion or with the execution of the work which the General Committee want to carry out. But, Sir, as I said yesterday, as this is a matter which means some little interference with private parties and with private rights, it is as well to provide an appeal to the Corporation. There may be cases in which individuals may have grievances, and it is right and proper that an opportunity should be given to individuals to appeal to a higher authority. Therefore, I venture to suggest the amendment which I have somewhat modified

from what I originally proposed. I trust my hon'ble friend will see his way to accept the amendment. It does not interfere with the work of the General Committee; it does not interfere with the execution of the orders of the General Committee. After these orders have been carried out either by the parties or by the General Committee, then it shall be open to the individual to prefer an appeal to the Corporation if he thinks fit."

The Hon'ble MR. BAKER said:—"The modification which the Hon'ble Member has made in the terms of his amendment makes practically no difference in the effect of it. The effect will be that an appeal will lie to the Corporation against the action or proceedings of the General Committee in carrying out orders under this section. Now, the whole object of this procedure is to effect improvements in unhealthy *bustees*. The appeal will lie at the very moment the General Committee step in to carry out the work. Sir, the modifications which the Hon'ble Member has made in his amendment make no difference whatever. The effect is just the same as if sections 425, 426 and 427 (*now* 406, 407 and 408) had been left in the amendment. I strongly object to any appeal being allowed to the Corporation under any circumstances. The Corporation is entirely unfitted for hearing appeals. Appeals that come to the Corporation are very seldom decided with exclusive reference to their own merits. This difficulty is not peculiar to the Calcutta Corporation, but is inherent in all large public bodies all over the world. Responsibility is so sub-divided that no ordinary member of a large body can be expected to feel the same interest, or to take the same pains in deciding the matter, as if he had to decide it alone or as if it had to be decided by a small tribunal of which he was an important part. When an appeal goes to the Corporation, I do not believe that three-fourths of the Commissioners take the trouble to make themselves acquainted with the facts beforehand. They regard the matter as if they were spectators rather than participators. The only Commissioners who do make themselves acquainted with the facts in advance are those with whom the appellant or his opponents have made some interest, and they approach the question as advocates, and not as independent judges. Consequently an appeal to the Corporation becomes a matter of advocacy, not of judgment, and, though I should be very far from saying that appeals in the past have been always decided wrongly, I do say that the merits of the appeals have not been the primary and exclusive grounds on which decisions have been arrived at. Therefore, I think that the Council should not consent to give the power of an appeal to the Corporation against the orders of the General Committee."

The Hon'ble MR. BUCKLEY said:—"My hon'ble friend Mr. Baker has said the Corporation is not a body to which appeals should be referred. I should like to explain to the Council what the procedure would be in London with reference to such appeals as far as the circumstances are parallel. What I shall say has reference to the wish of the Hon'ble Babu Surendranath Banerjee that appeals in the matter of *bustees* shall lie to the Corporation. Under the London Building Act there is an officer appointed under section 136 called Superintending Architect, who is a servant of the London County Council and has various duties to perform. One of these duties is the fixing of a line called the general building line. This matter is very much akin to this question of the improvement of roads and *bustees*. That officer lays down this line, and determines, in the first instance, any practical questions or difficulties which may arise. His orders are subject to appeal, and the appeal lies to what is called the Tribunal of Appeal. It does not lie to the General Committee as it lies here, nor does it lie to the County Council which corresponds to the Corporation, but it lies to what is called the Tribunal of Appeal. The constitution of the Tribunal of Appeal is interesting. It is as follows in section 175 of the London Building Act:—

"For the purposes of this Act a Tribunal of Appeal shall be constituted as follows:—

one member shall be appointed by the Secretary of State;

one member shall be appointed by the Council of the Royal Institute of British Architects;

one member shall be appointed by the Council of the Surveyor's Institute.

No member or officer of the Council shall be a member of the Tribunal of Appeal."



That is to say, in London they have actually decided that such questions shall be referred to a tribunal on which no member of the County Council has a seat at all. These questions are regarded as questions to be decided by practical men, and not as questions which are fit subjects for appeals to large representative bodies."

The Hon'ble MR. OLDHAM said:—"This is a matter of *bustee* improvement, and yesterday I had occasion to refer to the question of *bustee* reclamation. I ought to have explained that, so far as my information goes, it appears that the *bustee* reclamations and improvements which have been carried out in the past have been effected by a small Committee of the Corporation. I do not know that they have ever been interfered with by the Corporation, and I think the place of that *Bustee* Committee will best be taken by the General Committee, as is provided for under this Bill. I do not think that any appeal to the Corporation is necessary or desirable."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Sir, I desire to address myself chiefly to the observations of my hon'ble friend Mr. Buckley, who has cited the precedent of the London County Council, and who has read an extract which says that in matters like these the appeals lie to a completely independent tribunal, and that on that tribunal not a single member of the London County Council has a seat. Sir, I am glad that that extract has been read, because it supports my case in a most unexpected manner. The London County Council and the London Building Act recognise that, in cases of this kind, an appeal is desirable, and that is all I am endeavouring to press upon the attention of the Council. Here the General Committee have to pass orders in connection with matters seriously interfering with the rights of property, and no appeal is provided for. I suggest that an appeal be provided for; and to whom it should be preferred? I say it should be preferred to the Corporation. Therefore my friend's argument is directly in support of my contention. The extract states that on the Committee which has to hear appeals against the orders of this architect not a single member of the County Council has a seat. Now what is the General Committee? It is a Committee of the Corporation. Therefore, if the analogy holds good, the General Committee ought to have nothing to do with this matter. The General Committee are all members of the Corporation, and if my hon'ble friend maintains that the precedent of the London County Council is to be applicable to the case of the Calcutta Municipality, then I am entitled to hold that the General Committee ought to have nothing whatever to do with applications of this kind. But my hon'ble friend does not mean that at all. He wants to point out that in cases of this kind it is necessary to have an independent tribunal. Even in London, with the strong force of public opinion actively at work, a provision is made for appeals in cases of this description. Here, Sir, under an impotent public opinion, no provision is made for appeals in cases of this kind."

"I must express my surprise at the remarks that my hon'ble friend the member in charge of the Bill has made. My hon'ble friend says 'on no consideration can I consent to the Corporation being allowed the right of being appealed to in regard to these matters.' Well, Sir, my hon'ble friend's attitude in this connection reminds me of a celebrated chapter in Roman history, with which I am perfectly sure he is well acquainted. My hon'ble friend knows the words which Cato used frequently to recite to the Senate '*Carthago delenda est*,'—'Carthage must be destroyed,'—and my hon'ble friend never rises from his seat without exclaiming 'the Corporation must be humiliated; the authority of the Chairman must in everything be supreme.' I really do not think that the hon'ble gentleman who is in charge of a measure of local self-government should be animated by such feelings towards the Corporation. The Corporation is the embodiment of local self-government, and my hon'ble friend gave us the other day an assurance that there was no wish on the part of anybody to do anything

to destroy or curtail the principle of local self-government in this city. He said he was only seeking a judicious re-arrangement of the principle of representation. A judicious re-arrangement of the principle of representation according to my hon'ble friend means the absolute extinction of local self-government. I think, Sir, I am entitled to hold that opinion from the remarks which so frequently escape from the lips of my hon'ble friend. My hon'ble friend thinks this amendment deals with an immaterial point. Well then, why not please me if it is perfectly immaterial?"

The Hon'ble MR. BAKER said:—"I did not say it was immaterial. What I said was that the change you made in your amendment made no difference in the effect of it."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I misunderstood you. I think it will make a very great difference. Under amendment as it is now modified there is no interference with the work of the General Committee in the earlier stages; but, when the General Committee has finished its work, there may be an appeal to the Corporation. Originally, there would be power of appeal when the General Committee have issued an order; there would be power of appeal when the General Committee propose to carry out the improvements. There would in fact be an appeal against every action of the General Committee at every stage. Now, I have modified my amendment to this extent that the power of appeal is confined to one point, *viz.*, that when the work is finished, if the person feels himself aggrieved, he may go to the Corporation and endeavour to obtain redress. Then, Sir, my friend has made a remark that the Corporation would be an extremely unsuitable body to deal with appeals. My hon'ble friend knows how the business is done in the Corporation. I think my hon'ble friend Mr. Oldham has reiterated the same sentiment to my surprise. I am astonished that Hon'ble Members display such ignorance of the work of the Corporation. The appeal would probably be dealt with by a Committee appointed by the Corporation, possibly the whole matter would be disposed of by the Committee. I think that having regard to the issues involved, having regard to the fact that these sections contemplate interference with private property, and having regard to the precedent quoted by my hon'ble friend Mr. Buckley, there should unquestionably be a power of appeal. If there is to be an appeal against the orders of the General Committee, I cannot think of any tribunal better fitted to be the appellate tribunal than the Corporation. As for the argument that the Corporation is unsuited to deal with appeals, my reply is that the Corporation will not deal with these appeals, but that they will generally appoint a Committee to hear them and to come to a decision upon the points raised. Therefore, it seems to me that it is only reasonable and just that this amendment should be accepted."

The Hon'ble THE PRESIDENT said:—"I should like to ask one question of the Hon'ble Mr. Buckley. Is the appeal to the Tribunal of Appeal in London from the orders of one man or from the orders of a Committee?"

The Hon'ble MR. BUCKLEY said:—"The particular case I quoted, Sir, deals with building line. The appeal is from the orders of one man. Section 25 of the Act says that any person deeming himself aggrieved by a certificate of the Superintending Architect may appeal to the Tribunal of Appeal."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"It is only in regard to the building line. Is there any analogy between the practice followed in England as regards this matter and the practice we are now introducing here. Is there any section similar to that we are now discussing?"

The Hon'ble MR. BUCKLEY said:—"I can hardly say there is anything similar to *bustees*, but the building line comes into the question. There are of course very many and very large insanitary areas in London."



The motion being put, the Council divided as follows:—

*Ayes 5.*

The Hon'ble Babu Jatra Mohan Sen.  
The Hon'ble Babu Boikanta Nath Sen.  
The Hon'ble Babu Surendranath Banerjee.  
The Hon'ble Mr. Apear.  
The Hon'ble Dr. Asutosh Mukhopadhyaya.

*Noes 12.*

The Hon'ble Mr. Buckley.  
The Hon'ble Mr. Buckland.  
The Hon'ble Mr. Handley.  
The Hon'ble Rai Durga Gati Banerjee,  
Bahadur.  
The Hon'ble Mr. Mackenzie.  
The Hon'ble Mr. Spink.  
The Hon'ble Sahibzada Mahomed Fakhtyar  
Shah.  
The Hon'ble Khan Bahadur Maulvi Delawar  
Hosain Ahmed.  
The Hon'ble Mr. Oldham.  
The Hon'ble Mr. Baker.  
The Hon'ble Mr. Bolton.  
The Hon'ble Mr. Slack.

So the amendment was lost.

SECTION 413.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for the word "four" in line 3 of sub-section (5) of section 432 (*now* 413) the word "two" be substituted.

He said:—"If you will be good enough, Sir, to turn to section 425 (*now* 406), you will find that that section provides a procedure in cases where there has been 'dilatoriness,' that is to say, in order to expedite matters, the procedure laid down in section 425 (*now* 406) is followed."

The Hon'ble MR. BAKER said:—"I think I can shorten the matter by saying that I propose to accept this amendment."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that to section 432 (*now* 413) the following be added:—

"(6) Whenever action is taken under sub-section (4), clause (a), the provisions of sub-sections (2) and (4), or sub-section (3), as the case may be, of section 416D (*now* 397), shall be applicable."

He said:—"The object of this amendment is to make section 432 (*now* 413) harmonious with section 416D (*now* 397). Section 416D, which deals with the case of general improvements, authorises the Corporation to acquire land for the purposes of such improvements, and subsequently to sell, lease or otherwise transfer to a competent person the land and buildings which have been thus acquired for the purpose and under the condition that he will carry out such work in accordance with an approved scheme.

"Section 432 (*now* 413) deals with bustee improvement and provides as follows:—

"(1) Notwithstanding anything contained in sections 426 to 431 (*now* 407 to 412), the General Committee may, after receipt of a report made under section 425 (*now* 406) with respect to any bustee, pass a resolution to the effect that the bustee is an unhealthy area, and that in their opinion the purchase or acquisition of the bustee, or of any portion thereof, is necessary for the purpose of making the requisite improvements therein.

(2) When any such resolution has been passed, the General Committee shall proceed to make a standard plan for the improvement of the said bustee or portion, and shall lay such plan before the Corporation, together with such estimates as may be necessary for a due understanding of the same and a copy of the said resolution.

(3) If the plan be approved by the Corporation, they shall submit it to the Local Government, together with the said estimates and a copy of the said resolution; and, if the plan be approved by the Local Government, the General Committee may purchase or acquire the said bustee or portion.

(4) When the said bustee or portion has been so purchased or acquired, the General Committee shall either—

- (a) sell or let the same or part thereof to some person for the purpose and under the condition that he will, as respects the land so sold or leased to him, carry out the improvements shown in such standard plan, or
- (b) themselves bring the said bustee or portion, together with any part thereof which has not been sold or leased under clause (a), into conformity with such standard plan.

(5) The General Committee shall be bound to proceed as directed by sub-section (4) within a period of four years from the date of their purchasing or acquiring the said bustee or portion in pursuance of sub-section (3), or within such further period (if any) as the Local Government may prescribe.

“It will be observed that the two sections are very similar in scope, and I suggest that they should be placed on the same footing in the matter of the acceptance of security from the transferee who undertakes to carry out the improvement.”

The Hon'ble MR. BAKER said:—“I accept the amendment.”

The motion was put and agreed to.

#### SECTION 420.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words “with the approval of the Corporation” be inserted after the word “may” in line 1 of sub-section (1) of section 449 (*now* 420), and that the words “the Corporation” be inserted before the words “may impose” in line 4 of the same sub-section.

He said:—“I will read the section with the words inserted according to the terms of my amendment:—

“(1) The General Committee may, with the sanction of the Corporation, sanction the employment of a special establishment for the cleansing of any bustee, and, when any such establishment has been sanctioned, the Corporation may impose on the owners of the bustee a rate to defray the cost of the establishment.

(2) Any rate so imposed shall be recoverable in the manner provided by this Act for the recovery of the consolidated rate.”

“I may say, Sir, that my amendment is conceived in the terms of the existing law. If my hon'ble friend the Member in charge of the Bill would refer to section 269 of the present law, he will find that my amendment is in entire conformity with the terms of that section. Here is the question of imposing rates upon bustee-owners, and I think, Sir, in the matter of the imposition of rates, the Corporation ought to be the authority. The Corporation has the power of the purse. That has been definitely conceded. The Corporation fixes the rates and it deals with financial considerations. Therefore, Sir, it is desirable that, so far at any rate as the imposition of the rate upon bustee-owners is concerned, the Corporation shall have the authority. If my hon'ble friend the Member in charge of the Bill agrees to that, I will withdraw the first part of my amendment. As far as the employment of the establishment is



concerned, that is an executive matter, and the General Committee may have permission to do it; but I attach the utmost importance to the imposition of the rate. The rate is a thing which is imposed by the Corporation, and it would be in accordance with the principle, which is the principle of the Bill, that, so far as the imposition of the rate upon bustee-owners is concerned, the Corporation should have that power. And in this connection I may say that my views are supported by the high authority of the Corporation. My recommendation is upon the lines of the recommendation of the Bill Committee of the Corporation.

"Sir, throughout this debate I have been guided by the principle of compromise, whatever may be the attitude of the Hon'ble Member in charge of the Bill. I am prepared to allow the General Committee to make arrangements for the establishments. I do not want to interfere with that part of the Bill; but I do earnestly hope, Sir, that this Council will consent to accept that which I consider to be the most important part of the amendment, *viz.*, that the Corporation should have the power of imposing the rate upon the bustee-owners."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee says that he is dominated by the principle of compromise. If I may venture to say so without offence, his notion of compromise seems to be that eight annas of his total demand should be conceded in the Select Committee and the remaining eight annas in this Council. With reference to the specific amendment which he now proposes, if he is willing to withdraw the first part of it, I shall be willing to concede the second part. It is rather unfortunate that was not expressly stated in the amendment, as it would have saved a certain amount of discussion."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If I ask for a whole loaf, I will probably get half. I withdraw the first portion of my amendment 'with the sanction of the Corporation.'"

The second part of the amendment, namely, that the words "the Corporation" be inserted before the words "may impose" in line 4, was then put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that to section 449 (*now* 420), sub-section (1), the following be added:—

"Provided that, without the consent of the owners, no such rate shall be imposed in respect of any remodelled bustee."

He said:—"It seems to me that this proviso, which is in the existing law, is very reasonable. If a bustee-owner has incurred expense under the foregoing sections of this Chapter and his bustee has been re-modelled, it is not fair that he should incur additional expense."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

#### SECTION 422.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the Corporation" be inserted after the word "Chairman" in line 1 of sub-section (1) of section 453 (*now* 422).

He said:—"The section as amended will run as follows:—

“(1) The Chairman, with the sanction of the Corporation, shall—

- (a) take measures for lighting in a suitable manner the public streets and municipal markets and all buildings vested in the Corporation;
- (b) procure, erect and maintain such number of lamps, lamp-posts and other appurtenances as may be necessary for such lighting; and
- (c) cause such lamps to be lighted by means of oil, gas and electricity or such other light as the Corporation may from time to time determine.”

“The Hon’ble Member the other day observed, and observed with much justice, that in the matter of lighting the Ward Commissioners are accustomed to take a great deal of interest, and that it is desirable to make some concession to the interest which they evince in this matter. Well, in this amendment I carry out the suggestion of my hon’ble friend. Whenever, Sir,—and I speak from personal experience,—a street is to be lighted, an application is made by the rate-payers; that application is sent on to the office; the office sends it back to the Ward Commissioner for his opinion; and the opinion of the Ward Commissioner generally is given effect to. I think, Sir, in a small matter like this the approval of the Corporation would not in the smallest degree weaken the hands of the Chairman, but on the other hand will enable him to discharge his duty in this respect in a satisfactory manner, and I will tell you my reasons. We have got at the present moment one Lighting Inspector. That gentleman is supposed to inspect the lighting of the whole town. You can easily understand how efficiently this gentleman, having the whole of the town under his charge, is able to perform his duties. As a matter of fact he is merely an ornamental figure-head. I do not think he is able to perform his duties satisfactorily, and the Ward Commissioners render him valuable help. The Ward Commissioners in this matter represent an important adjunct to the municipal administration of the town, and, that being so, I am anxious to associate them with the Chairman in the discharge of his duties in this matter. I admit, Sir, that, so far as the sections relating to lighting are concerned, the power of supervision is given to the General Committee; but, Sir, in the new General Committee the representatives of the rate-payers will be in a minority, certainly not in a majority; and it is desirable therefore that the Corporation should have something to say with regard to this matter of the lighting, and that the Ward Commissioners should be allowed to be associated with the Chairman in the discharge of his duties.”

The Hon’ble MR. BAKER said:—"In the Select Committee, section 458A (now 428), which places the Chairman under the control of the General Committee in matters connected with lighting, was inserted expressly in order to enable the Ward Commissioners to have some voice in lighting matters. There is not the slightest necessity to place the Chairman also under the general control of the Corporation.”

The Hon’ble BABU SURENDRANATH BANERJEE, in reply, said:—"This is an exceedingly small matter, and I thought my friend would see his way to give way. Section 458A (now 428) says:—

“The Chairman shall, in the performance and exercise of the duties and powers imposed and conferred on him by this Chapter, be subject to the control of the General Committee.”

“The Ward Commissioners would not be under the General Committee, and then we have now got a very salutary provision which enables Ward Commissioners to move resolutions in the General Committee. Suppose a Ward Commissioner is not a member of the General Committee, and, if he has any good scheme, he is empowered according to the present practice to come before the General Committee, give notice of motion and move his Resolution



whatever it may be. He has not got the right to vote. Therefore, under the present practice, which finds no place in this Bill, the Ward Commissioners can associate themselves with the General Committee; but under the Bill they have no place in the General Committee. The object of my amendment is to associate the Ward Commissioners with the Chairman."

The Hon'ble MR. OLDHAM said:—"My hon'ble friend Babu Surendranath Banerjee has adduced some fresh facts in his reply. There is nothing in the present law which provides for Ward Commissioners making motions before the General Committee. There is nothing in the Bill to prevent them doing so, and nothing has been done to alter the practice."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I certainly quite admit all that. The spirit of the present law is popular, but that of the Bill is official, if I may be permitted to say so; and I am certain a practice such as now prevails would be discarded. If the Ward Commissioners are allowed to be associated with the General Committee, good and well; but I am bound to say, having regard to the spirit of the Bill, that the Ward Commissioners probably will not be associated with the General Committee. If they are associated with the General Committee, we at any rate are not expressly providing for it in the law. Will the Hon'ble Member in charge of the Bill consent to make a provision to that effect? He will not consent, and therefore it seems to me that it is not likely, so far as I can judge, that the Ward Commissioners will be associated with the Chairman."

The motion was then put and lost.

#### SECTION 429.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion, standing in his name, that sub-section (2) of section 459A (now 429) be omitted, and moved instead that the following be substituted for sub-section (2) of section 459A (now 429), namely:—

"(2) Any land that may be required in a justee for the temporary deposit or final disposal of rubbish, offensive matter, sewage or carcasses taken from buildings or lands in such bustee shall be provided by the owners of the bustee."

He said:—"With Your Honour's permission I would substitute a new motion in place of the one I have just withdrawn. Sub-section (2) of section 459A (now 429) reads:—

"(2) Any land that may be required in a bustee for the purposes of sub-section (1) shall be provided by the owners of the bustee."

"I have placed myself in communication with the Hon'ble Member in charge of the Bill, and he has suggested a modification of my amendment, and I accept that modification. I will read the new section:—

"Any land that may be required in a bustee for the temporary deposit or final disposal of rubbish, offensive matter, sewage or carcasses taken from buildings or lands in such bustee shall be provided by the owners of the bustee."

"The difference between the sub-section as it stands and the proposed amendment is this. The section is of a general character. Almost any refuse could be deposited on land belonging to the bustee-owner, but here the amendment proposes that refuse, carcasses and things of that kind taken from land or

buildings in the bustee shall alone be deposited on land to be provided by the bustee-owner. This seems to me to be reasonable, and I have pleasure in accepting the modified amendment."

The Hon'ble Mr. BAKER said:—"I accept this amendment."

The motion was put and agreed to.

#### SECTION 430.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that for section 459B (now 430) the following be substituted:—

"The General Committee may cause any number of moveable or fixed dust-boxes or other convenient receptacles (wherein rubbish and offensive matter arising from the ordinary domestic use of houses may be temporarily deposited, until removed and carried away) to be provided and placed in proper and convenient situations, and may require the occupiers of houses in public streets to cause all such matter as aforesaid to be deposited in such receptacles and between such hours as they may from time to time direct:

Provided that no occupier shall be required to deposit refuse in a dust-box at a greater distance than fifty yards from the entrance of his premises."

He said:—"This is practically a reproduction of section 298 of the existing law. The difference between the existing law and what is proposed in the Bill is this: the existing law makes provision for public dust-bins to be placed on public streets to which people may resort and in which they may put their refuse and other things. The Bill provides not only for public dust-bins but for private dust-bins to be placed at or near the entrance of houses. Subsection (1) of section 459B provides—

'The Chairman may, by public notice, direct that all rubbish and offensive matter accumulating in any premises in any street or quarter of Calcutta specified in the notice shall be collected by the occupier of such premises and deposited in a box or basket, of a kind prescribed by the Chairman, to be provided by such occupier and kept at or near the entrance to the premises.'

"Therefore, Sir, here provision is made for occupiers providing themselves at their own expense with private dust-bins and dust-boxes. We considered this matter more than once at meetings of the General Committee. I do not know whether my hon'ble friend the Member in charge of the Bill remembers those occasions, but we considered this matter as to whether it would not be desirable to have private dust-bins for the use of occupiers of houses, and we thought that on the whole it would be as well not to make any provision to that effect. In this matter we are bound to respect Hindu feeling and sentiment. If you place a dust-bin at the entrance to the house of a Hindu or near the entrance to his house, and refuse is deposited there and the dust-bin is used by mehters and other low class people, it becomes a polluted thing. The inmates of the house will not approach it. They will not touch it, and it would be perfectly useless. Of course, I am free to admit that in Calcutta there are other communities besides the Hindu community; but, Sir, the Hindu community bulks very largely on the view; the Hindu community preponderate in numbers, if they do not preponderate in wealth or intelligence. Any municipal measure of this kind must be looked at from the point of view of the Hindu community; and I am bound to say, Sir, that if you insist upon providing private dust-bins to be placed at or near the entrance of houses inhabited by Hindus, they will become objects of pollution, which will be abhorred by the Hindus. I am well aware of the fact that there is such a provision in the Bombay Act. I do not know how it has worked there, but that is the feeling in regard to this section in the mind of the Hindu community; and I think, Sir, it is desirable, when we are legislating in a matter like this, to respect that feeling. The dust-bin would be useless; the people would abhor and shun a thing of that kind; and it is for the Hon'ble Member in charge of the Bill to say whether, having regard to this state of feeling, it is desirable to legislate upon these lines so far as private dust-bins are concerned."



The Hon'ble MR. BAKER said :—"I have listened to the Hon'ble Member with the greatest surprise. This matter was most fully considered in the Select Committee. The provisions in the original Bill were entirely different from those in section 459B (now 430). The Select Committee invited Mr. Hughes and Dr. Cook, the Engineer and Health Officer of the Corporation, to attend their sittings and favour them with their views. Mr. Hughes recommended that the private dust-bin system should be introduced in Calcutta universally. He told us that in Paris, where many of the streets are very narrow, it was found possible to work that system; and he undertook to explain how it was carried into effect there. Dr. Cook on the other hand, who had had experience of this kind of work in Madras and elsewhere, said there were parts of Calcutta in which the private dust-bin system would be impossible; and then I remember telling the Select Committee that my own view was entirely in favour of what Dr. Cook had said, and that they would act unwisely in accepting Mr. Hughes' much more drastic proposals. I then brought forward the scheme which is embodied in this section, and this scheme, Sir, was accepted unanimously by the Select Committee, including the Hon'ble Babu Surendranath Banerjee himself and Babu Narendra Nath Sen. The only explanation I can imagine for the Hon'ble Member's opposition now is that he has not really understood what the effect of the system will be. What this section provides for is this. It provides for all three systems. In the first place, it provides for the private dust-bin system; secondly, it provides for the public dust-bin system; and, thirdly, it provides for the existing system under which rubbish is deposited on the road outside the doorway of each person's house; and it lays down that the Chairman may direct that each one of these three systems shall be applied in such streets or quarters as may be found desirable. I remember expressly explaining to the Select Committee that the private dust-bin system was suitable for, and would be applied in, the European quarters, such as Chowringhee, Theatre Road, Park Street, and places like that. The public dust-bin system, which is the system authorised by the existing Act, would be suitable for the more open part of the native quarter—the northern part; while the extremely insanitary third system, by which rubbish is deposited on the road, would be continued in those quarters of the town which were too crowded and in which the streets were too narrow to allow even of the public dust-bin system. There is not the remotest danger that the religious feelings of any Hindu will be affected in the smallest degree if this system is properly and judiciously worked."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said :—"I must say that my memory fails me with regard to what the Hon'ble Member in charge of the Bill says transpired in the Select Committee, and, in fact, Sir, I once suggested that it would be a good thing if the proceedings of Select Committees were published in the same way as the proceedings of the various Committees of the Corporation are published. Then we could rely upon regularly authenticated notes as to what transpired. I must say I do not remember anything at all about the matter to which my hon'ble friend has referred. I do not wish to challenge his statement, but I have no recollection of the matter. Apart, however, from what transpired in the Select Committee, I should like my hon'ble friend to make a reference and to abide by this reference as to whether what I have said is not consistent with the facts of the case. I will not say that Hindu feeling would be hurt, but Hindus would not have anything to do with the dust-bins at the entrance to their houses if they have been used by dhangars and others, and I think that is the correct view of the matter. When a Hindu finds that dhangars and mehters go and touch the dust-bins, they will fight shy of them. It may be a prejudice, but there it is, the prejudice exists, and, if there is that prejudice, the law would be unworkable. If I did not take up that position in the Select Committee, I failed to do my duty, and because I failed to do my duty at the Select Committee, that is no reason why I should fail to do my duty here, having regard to what I know about Hindu feeling in this matter."

The Hon'ble MR. SPINK said :—"I perfectly remember the explanation which the Hon'ble Member in charge of the Bill gave in the Select Committee, and he has explained it here again exactly as he did in the Select Committee."

The Hon'ble MR. BAKER said:—"As the Hon'ble Babu Surendranath Banerjee has hinted that there may possibly be some question of religious feeling, I am quite willing to allow the General Committee a voice in this matter. I have not the smallest objection to provide that 'the Chairman in the discharge of his duty under this section shall be subject to the control of the General Committee.'"

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I accept that."

The motion was then put and lost.

The Hon'ble MR. BAKER, with the permission of the President, then moved that the following clause be added to section 459B (*now* 430):—

"(5) In the exercise of his powers under this section, the Chairman shall be subject to the control of the General Committee."

The motion was put and agreed to.

#### SECTION 431.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 459C (*now* 431), clause (a), for the word "or" at the end, be substituted "and if the occupier fails to carry out such direction."

He said:—"Section 459C (*now* 431) deals with the collection and removal of rubbish and offensive matter accumulating on business premises. The two clauses as they stand seem to be alternatives. I am not sure that this is really intended. The section first provides that—

'When any premises are used for carrying on any manufacture, trade or business in the course of which rubbish or offensive matter is accumulated in quantities which are, in the opinion of the Chairman, too considerable to be deposited in any of the methods prescribed by notice issued under section 459B (*now* 430), the Chairman may,—

(a) by written notice, direct the occupier of such premises to collect all rubbish and offensive matter accumulating on such premises, and to remove the same at such times, in such carts or receptacles, and by such routes as may be specified in the notice, to a public receptacle, depôt or place provided or appointed under section 459A (*now* 429).'

"This is followed by an alternative in clause (b):

'or, after giving such occupier written notice of his intention so to do, himself cause all rubbish and offensive matter accumulating in such premises to be removed, and charge such occupier for such removal such periodical fee as may, with the sanction of the General Committee, be specified in such notice.'

"I venture to think that it would be reasonable to bring clause (b) into operation only after a notice has been issued under clause (a) and the occupier has failed to take the necessary steps. It does not seem to be just or necessary that there should be any interference by the Corporation even if the occupier is able and willing to carry out the work."

The Hon'ble MR. BAKER said:—"I am pretty certain that the members for the Corporation will not agree to this amendment. That is not the intention at all. The intention is that the Chairman shall have the option, in the case of business premises of that kind, either to require the occupier to remove this refuse, or, if the Chairman thinks fit, he may himself make the necessary arrangements. It is easy to conceive that occasions might arise in which it would not be right that the occupier should have any option in the matter, and in which the requirements of public health would necessitate the Chairman's



making arrangements to remove the trade refuse through the ordinary municipal staff. The section, I think, is right as it stands."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I beg to support the remarks made by the Hon'ble Member in charge of the Bill. I think the option ought to be left to the Corporation. These are considerations of public health, and the authority ought to be vested in the Municipality."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA's motion that in section 459C (*now* 431), clause (b), line 5, for "change" be substituted "charge," was not put, it being understood that the word "change" was a typographical error which would be duly corrected in reprinting the Bill.

#### SECTION 434.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words "General Committee," in line 4 of section 463 (*now* 434), the word "Corporation" be substituted.

He said:—"Section 463 (*now* 434) provides—

"In cases not provided for by any notice issued under section 459C (*now* 431), the Chairman shall from time to time, with the sanction of the General Committee, prescribe—

- (a) the hours within which sewage and offensive matter may be removed,
- (b) the kind of cart or other receptacle in which sewage or offensive matter may be removed, and
- (c) the route by which such carts or other receptacles shall be taken."

"This is a question which concerns large sections of the people, and routes may be appointed which may be highly inconvenient, and in a matter like this the Corporation ought to have the authority. I think it is always desirable in matters like these, where the interests of a large class of people are concerned, that the Corporation should have power, and that is all that I have got to say."

The Hon'ble MR. BAKER said:—"This is essentially an executive matter, Sir, and such degree of public control as is necessary is provided for by giving the power of control to the General Committee. I think it is quite wrong and improper that this should be given to the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I should like to point out a nuisance which existed, namely, the removal of night-soil from the Fort. That used to cause a great nuisance to the northern part of the town, and I remember this matter came up before the Corporation, and we fixed the hours within which the night-soil was to be removed. A case of that kind might occur, and, having regard to that fact, it seems to me that it would be as well to leave the power to the Corporation. The Chairman does it in the first instance. You do not interfere with the Chairman. He does it, but it ought to be done subject to the control of a larger body than the Chairman, because considerations of public convenience are concerned."

The motion was then put and lost.

#### SECTIONS 444 AND 445.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

- (1) that in section 473 (*now* 444), sub-section (1), line 4, before the word "Magistrate" be inserted "Presidency," and
- (2) that in section 474 (*now* 445), sub-section (1), line 6, before the word "Magistrate" be inserted "Presidency."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved (No. 269) that in section 473 (*now* 444), sub-section (1), for the words "such inquiry as he thinks fit to make" be substituted "taking such evidence as may be adduced before him, and after hearing the owner and the occupier."

He said :—"This amendment depends on the same principle as my amendment to section 33 (*now* 41), which was accepted by the Council with a slight modification. The section as it stands now provides that—

'(1) If, for any reason, any building intended for or used as a dwelling-place appears to the Chairman to be unfit for human habitation, he may apply to a Magistrate to prohibit the further use of such building for such purpose; and the Magistrate, after such enquiry as he thinks fit to make, may, by written order, make a prohibition as aforesaid or may pass such other order as he may deem just and proper.

'(2) When any such prohibition has been made, no owner or occupier of such building shall use or suffer the same to be used for human habitation until the Chairman certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or a Magistrate, by written order, withdraws the prohibition aforesaid.'

"I desire to make it quite clear that the enquiry which the Magistrate is to hold will be a judicial enquiry, and, therefore, instead of omitting the words 'such enquiry as he thinks fit to make' as in the other case, I add these words: 'taking such evidence as may be adduced before him, and after hearing the owner and the occupier.'"

The Hon'ble MR. BAKER said :—"I do not agree to this amendment. The Magistrate's procedure is governed by the Criminal Procedure Code. Why should we in a Municipal Act go out of our way to prescribe it for him unless we have some intention of modifying the ordinary procedure? There is no intention of modifying the procedure laid down for magisterial enquiries under the Criminal Procedure Code. Why not leave it to the operation of the ordinary law?"

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said :—"I am surprised, Sir, at this opposition, because the Hon'ble Member in charge of the Bill cannot possibly be right. The Magistrate, when he takes action under this section, does not act under the Criminal Procedure Code. Let us look at the other sections of the Bill, for instance at section 644 (*now* 623); if the Hon'ble Member's contention is right, that section is absolutely superfluous. Sub-section (1) of section 644 (*now* 623) provides :—

'(1) For the purposes of any enquiry or proceeding under this Act, a Court of Small Causes may summon and enforce the attendance of witnesses and compel them to give evidence and compel the production of documents, by the same means, and as far as is possible in the same manner, as is provided by the Presidency Small Cause Courts Act, 1882, or the Provincial Small Causes Courts Act, 1887, as the case may be; and, in all matters relating to any such enquiry or proceeding, the said Court shall be guided generally by the provisions of the said Presidency Small Cause Courts Act, or the said Provincial Small Causes Courts Act, as the case may be, so far as the same are applicable.'

"What is the use of this section, if the Small Cause Court Judge, when he hears a case under the present Act, exercises all the powers which he possesses under the general law? I think that the amendment is necessary and I must press it."

The Hon'ble THE PRESIDENT said :—"Will the Hon'ble the Legal Remembrancer advise us on this point?"

The Hon'ble MR. HANDLEY said :—"I should say that this might cause harm in one particular case. For instance, under section 133 of the Criminal Procedure Code, a Magistrate can pass an *ex parte* order in cases. He is not bound to record evidence at all, and that would be perhaps inconvenient in a case like this, where a building was in bad order or liable to tumble down. As the Secretary has pointed out, Chapter I, section 5, sub-section (2), of the Criminal Procedure Code provides for that offences under local laws shall be tried according to the provisions of the Code.



"So that it seems to me that any proceedings under this special Act would be under the Criminal Procedure Code. I do not quite follow the Hon'ble Member for the University how he would make out that there is a special proceeding provided by this Act."

The Hon'ble BABU BOIKANTO NATH SEN said:—"I venture to think that this special power ought to be given to the Magistrate under this Municipal Act. The Criminal Procedure Code makes an exception in favour of local Acts or special Acts, and the provision in section 644 (*now* 623), as has been pointed out by the Hon'ble Dr. Asutosh Mukhopadhyaya, makes it necessary that there should be a special provision as regards powers to be exercised by the Magistrate. The Magistrate to exercise such power must have special powers."

The motion was then put and lost.

The Hon'ble THE PRESIDENT said:—"The motion just lost covers the Hon'ble Dr. Asutosh Mukhopadhyaya's motion No. 272."

The last motion having been lost, the Hon'ble Dr. Asutosh Mukhopadhyaya, by leave of the Council, withdrew the motion (No. 272) standing in his name that in section 474 (*now* 445), sub-section (1), for the words "such enquiry as he thinks fit to make" be substituted "taking such evidence as may be adduced before him, and after hearing the owner and the occupier."

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the Corporation" be inserted after the word "may" in line 1 of sub-section (2) of section 474 (*now* 445).

He said:—"Section 474 (*now* 445) provides:—

(1) If it appears to the Chairman that any dwelling-house, or any public building or hut which is used as a dwelling-place, or any room in any such house, public building or hut, is so overcrowded as to endanger the health of the inmates thereof, he may apply to a Magistrate to abate such overcrowding; and the Magistrate, after such enquiry as he thinks fit to make, may, by written order, require the owner of the building or room, within a reasonable time, not exceeding four weeks, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.

(2) The General Committee may, by written order, declare what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (1), to be necessary for each occupant of a building or room.

(3) If the owner of any building or room referred to in sub-section (1) has sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room.

(4) It shall be incumbent on every tenant, lodger or other inmate of building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (1)."

"The object is to prevent overcrowding, and the order has to be passed only once, and a general rule is to be laid down. It seems to me that in an important question like this, where the interests of the Indian rate-payers are so largely concerned, it is necessary that the Corporation should control the sanitary laws that have to be enforced; but the sanitary laws have to be enforced with a due regard to the conveniences, wants and capabilities of the people. I think the Corporation would be in a better position to judge of these capabilities than the General Committee, and the thing has to be done only once. Once a rule has to be laid down, and it seems the General Committee may do so with the sanction of the Corporation. You are going to introduce new sanitary rules to which the people are absolute strangers, and, in order to adapt those rules to local requirements, local knowledge is necessary, and local knowledge is not to be found in the General Committee to the same extent as it would be found in the Corporation consisting of the representatives of the rate-payers."

The Hon'ble MR. BAKER said:—"This is purely a matter of executive detail, and I really cannot conceive on what sort of principle it is proposed to transfer a matter like that to the jurisdiction of the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE in reply, said:—"I do not see that there is any question of transfer. It is not a transfer of authority from the General Committee to the Corporation. Suppose, for instance, a rule is laid down by the General Committee which operates with great hardship upon a particular class of the native inhabitants; surely it would be a good thing to allow the Corporation to say something about it."

The motion being put, the Council divided as follows:—

*Ayes. 5.*

The Hon'ble Babu Jatra Mohan Sen.  
The Hon'ble Babu Boikanta Nath Sen.  
The Hon'ble Babu Surendranath Banerjee.  
The Hon'ble Mr. Apar.  
The Hon'ble Dr. Asutosh Mukhopadhyaya.

*Noes 12.*

The Hon'ble Mr. Buckley.  
The Hon'ble Mr. Buckland.  
The Hon'ble Mr. Handley.  
The Hon'ble Rai Durga Gati Banerjee, Bahadur.  
The Hon'ble Mr. Mackenzie.  
The Hon'ble Mr. Spink.  
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.  
The Hon'ble Khan Bahadur Maulvi Delawar Hossain Ahmed.  
The Hon'ble Mr. Oldham.  
The Hon'ble Mr. Baker.  
The Hon'ble Mr. Bolton.  
The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that at the end of section 474 (*now* 445), sub-section (4), be added "and no such tenant, lodger or other inmate shall be entitled to claim damages from the owner on account of such eviction."

He said:—"Section 474 (*now* 445) deals with the subject of abatement of overcrowding in dwelling-houses, and sub-section (4) provides that 'it shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do, in pursuance of any requisition made under sub-section (1).' It seems to me to be a necessary corollary that the landlord should be protected, if there is any eviction of his tenant by the Corporation; in such a case, the landlord ought not to be held liable for damages to the tenant."

The Hon'ble MR. BAKER said:—"I think this amendment is unnecessary. I am advised that, if a tenant is evicted under a statutory provision of the law, he is not ordinarily entitled to any compensation or damages from his landlord; but, if for any special reason and in any special case he had such a legal claim, why should we take it away?"

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I anticipated, Sir, this objection: either it is a very easy question of law, which it is not necessary to deal with, or, if the tenant has a legal right, why take it away? However, I press my amendment on the Council."

The motion was then put and lost.

SECTION 447.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 476 (*now* 447), clause (ii), after the word "land" be inserted "or tank or the site of such tank."



He said:—"These words are to be found in the existing Act, and I have not been able to make out any valid reason why they should be omitted. Section 476 (now 447) says:—

"(1) When any well, tank or marshy ground, or any waste or stagnant water, whether within any private enclosure or not, appears to the Chairman to be injurious to health or offensive to the neighbourhood, he may, by written notice, require—

- (a) the occupier of the building or land to which such well pertains, or
- (b) the owner of such tank, ground or water,

to cleanse or fill up such well, tank or ground with suitable material, or to de-water the same, or to drain off or remove such water.

(2) If the Chairman, in exercise of the powers conferred by section 622, (now 579) executes any work referred to in a notice issued under sub-section (1) of this section, and if the person liable to pay the expenses of such work fails to pay the same, the Chairman may—

- (i) lease any part of the land used in connection with the said well, tank or water, or any part of the said ground, as the case may be, or
- (ii) retain possession of such land or ground and utilise the same for public purposes.

(3) If the said expenses be paid by an occupier of land, he may deduct the same from any rent due to the owner of the land.

(4) An appeal shall lie to the General Committee from any notice issued or other action taken by the Chairman under this section, and their decision shall be final."

"In the present Bill I find the words 'retain possession of such land.' I do not think there is any intention to limit the law as it now stands. There is no reason why it should be so restricted, and the Corporation ought to have power not only to retain possession of such land or adjoining land, but also of the tank itself or the site of the tank."

The Hon'ble MR. BAKER said:—"The words 'such land' in clause (ii) refer back to the words 'land used in connection with the said well,' etc., which occur in clause (i). I do not think it is necessary or that it would make sense to insert these words in clause (ii) only. I cannot understand the reason for it."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"If you look back to clause (a), you will observe that the word 'land' does not cover a tank; the words are 'the occupier of the building or land to which such well appertains,' whereas in clause (b) the words are 'the owner of such tank, ground or water.'

"There is no intention, I understand, that the Corporation should not have the power to take possession of the tank or the site of the tank."

The Hon'ble MR. BAKER said:—"I will accept this amendment."

The motion was then put and agreed to.

#### Section 448.

In the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN moved, on behalf of the former, that the words "or otherwise" be inserted after the words "General Committee" in line 2 of sub-section (1) of section 477 (now 448).

He said:—"I have been requested by the Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur, to move this amendment, and I have pleasure in doing so. Section 477 (now 448) as proposed to be amended will read:—

"The Corporation, at the instance of the General Committee or otherwise, may by a general order, etc.

"The object is very clear: that the Corporation may have its discretion in moving under this section not simply at the instance of the General Committee, but it may also take action on any other information."

The Hon'ble MR. BAKER said:—"In the original Bill this power was vested in the General Committee only, and in the Select Committee this modification was made. I was opposed to the modification, and regret it because it seems to me that this is a power with which the Corporation have really nothing material to do. I do not wish to go behind the decision of the Select

Committee in any way, but taking that decision, I think on the other hand we ought not to exclude the General Committee, because the General Committee is the working body of the Corporation, and will probably be better informed as to the necessity of passing an order for prohibiting excavations than the Corporation at large will be."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The object is not to exclude."

The Hon'ble MR. BAKER said:—"That excludes the General Committee. It means that the Corporation may act otherwise than at the instance of the General Committee."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The General Committee will have the power of suggesting to the Corporation any course of action it proposes, but the Corporation independently may also act. It does not exclude the General Committee from suggesting to the Corporation that a particular course of action should be followed. I do not think it excludes. It only widens the sphere of discretion which the section gives to the Corporation. I do not think there ought to be any serious objection to it."

The motion was then put and lost.

*Sections 449 and 450.*

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that at the end of section 477A (*now* 449) and section 477B (*now* 450) the following be added:—

"Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of adducing evidence and of being heard in defence."

He said:—"Sections 477A and 477B (*now* 449 and 450) deal with the demolition or alteration of building and work which have been unlawfully commenced, carried on, or executed. Section 477A (*now* 449) provides as follows:—

"If the General Committee are satisfied—

(1) that the erection or re-erection of any building—

- (a) has been commenced without obtaining the permission of the Chairman, or (where an appeal or reference has been made to the General Committee) in contravention of any orders passed by the General Committee, or
- (b) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or
- (c) is being carried on or has been completed in breach of any provision contained in this Act or in any rules or bye-laws made hereunder, or of any direction or requisition lawfully given or made under this Act or such rules or bye-laws, or

(2) that any alterations required by any notice issued under section 391D (*now* 383) have not been duly made, or

(3) that any alteration of, or addition to, any building, or any other work made or done for any purpose in, to or upon any building, has been commenced or is being carried on or has been completed in breach of section 405A (*now* 391), section 421 (*now* 402) or section 422 (*now* 403),

the General Committee may apply to a Magistrate, and such Magistrate may make an order—

- (i) directing that the work done, or so much of the same as has been unlawfully executed, be demolished by the owner of the building or altered by him to the satisfaction of the Committee, as the case may require, or
- (ii) directing that the work done, or so much of the same as has been unlawfully executed, be demolished or altered by the Chairman at the expense of the owner of the building."

"Similarly, section 477B (*now* 450) provides:—

"In any of the following cases, namely:—

- (1) if, within the period prescribed in any notice issued under section 329B, sub-section (3) [now section 340, sub-section (5)], requiring the owner or occupier of a building to comply with any condition on which the putting up of any veranda or other projection was permitted, such condition is not complied with, or



- (2) within the period prescribed in any notice issued under section 329B, sub-section (4) [now section 340, sub-section (6)], requiring the owner or occupier of a building to remove a verandah or other projection, the same be not duly removed, or
- (3) if, within the period prescribed in any notice issued under section 329C (now 341), sub-section (1), requiring the removal or alteration of a fixture, the fixture be not duly removed or altered, or,
- (4) if the General Committee decide that any additions made to a building or wall in pursuance of an agreement executed under the proviso to section 335 (now 351) ought to be removed, or
- (5) if, within the period prescribed in any notice issued under section 336 (now 352), sub-section (2), requiring the owner of a building to remove or alter an external roof or wall made of inflammable material, the same be not duly removed or altered, or
- (6) if any owners or occupiers neglect to execute any works or take any measures required by any notice affixed under section 475 (now 446), sub-section (1), or
- (7) if any privy be placed in contravention of rule 1 or sub-rule (1) of rule 2 of Schedule XIIB (now XVI), or
- (8) if any person, after erecting a service privy authorised under the proviso to sub-rule (1) of rule 2 of Schedule XIIB (now XVI), fails to pay any sum required under that proviso,

the General Committee may apply to a Magistrate, and such Magistrate may make an order directing that the projection, fixture, additions, roof, wall, buildings or privy, as the case may be,—

- (a) be demolished by the owner or altered by him to the satisfaction of the Committee, or
- (b) be demolished or altered by the Chairman at the expense of the owner.\*

“My suggestion is that no *ex parte* order should be made under either of these sections; there can be no possible question that the order should be made after the owner and occupier have been given a full opportunity of being heard in defence.”

The Hon'ble MR. BAKER said:—“I can only say, what I said with reference to amendment No. 269\* that this is a matter in which the Magistrate ought to follow—and as I imagine will be bound to follow—the terms of the Criminal Procedure Code as to his procedure in conducting an enquiry. I imagine that, if any Magistrate did not follow that procedure, he would be immediately called to order by the High Court.”

The Hon'ble MR. HANDLEY said:—“I wish to point out, with reference to what the Hon'ble Member in charge of the Bill has said, that there is a specific provision in section 474 (now 445) of the Bill that the Magistrate shall make such enquiry, whereas there is none in these two sections. So it is possible they might be interpreted in the sense that the Hon'ble Member for the University has pointed out. Section 474 (now 445) provides:—

“If it appears to the Chairman that any dwelling-house, or any public building or hut which is used as a dwelling-place, or any room in any such house, public building or hut, is so overcrowded as to endanger the health of the inmates thereof, he may apply to a Magistrate to abate such overcrowding; and the Magistrate, after such enquiry as he thinks fit to make, may, by written order, require the owner of the building or room, within a reasonable time, not exceeding four weeks, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.”

“There is a specific provision there that he shall make an enquiry; so that it is possible, if there is no such provision in these two sections, he can pass an *ex parte* order under section 133 of the Criminal Procedure Code without taking any evidence whatever. It is possible that that mistake might occur.”

The Hon'ble MR. BAKER said:—“In view of what the Hon'ble the Legal Remembrancer has said, I accept the amendment. It never was intended for a moment that he should pass an *ex parte* order. The only doubt was whether this particular amendment was necessary or not.”

The motion was then put and agreed to.

\* Printed *supra*, p. 410.

## SECTION 455.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the word "and" in line 4 of clause (a) of sub-section (1) of section 482A (*now* 455), the following words be substituted:—

"or bullocks for registered carts or horses for hackney carriages, and."

He said:—"Section 482A (*now* 455), clause (1), provides—

"The Corporation, at the instance of the General Committee, may give public notice of their intention to declare—

(a) that in any area specified in the notice no person shall keep milch-cattle for the purpose of supplying milk by sale."

"This is a sanitary provision. The object is to exclude the keeping of milch-cows in certain areas by a general order on the part of the Corporation. I suggest that bullocks for registered carts and horses for hackney carriages may also be included, and it shall be open to the Corporation to declare that in certain parts of the town no milch-cow, no bullocks for registered carts and no horses for hackney carriages shall be kept. This is only an extension of a principle which has been already conceded in the first part of the sub-section. The object is entirely sanitary."

The Hon'ble MR. BAKER said:—"The provisions of section 482A (*now* 455) are extremely drastic. They give the Corporation power to declare that within an area to be specified no animals of a particular kind may be kept at all. Now the section as it stands at present is limited to the case of milch-cattle, and the justification for that provision in the case of milch-cattle is that they produce milk, and milk is an article of human food which is peculiarly liable to contamination. That argument does not apply in the case of bullocks for registered carts or horses for hackney carriages, and it seems to me that we ought to be very careful before we extend the provision of this drastic section to any further cases. If the Hon'ble Member will look at the two succeeding sections 482B and 482C (*now* 456 and 457), I think he will find that really everything which is essentially necessary in the case of bullocks and hackney carriage horses is already provided for and includes everything that is reasonable."

The Hon'ble MR. APCAR said:—"I support the amendment. If power is given to the Corporation to make a declaration, it would give power to prevent bullocks for registered carts and horses for carriages from becoming a nuisance in a neighbourhood, and in this view I support the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"All that is wanted is a declaratory power—not that the moment you pass the section all the bullocks and all the hackney carriages will be transferred from one part of the town to the other. The section will be enforced only at the instance of the General Committee and upon evidence and information which the Corporation shall consider to be necessary. In the existing law there is no such provision, and I will give you my reason why this provision suggested itself to my mind. I had a case in my ward. There was an Eurasian gentleman in a humble position who lived in ward No. 14, and he had a number of milch-cows kept close to his house. The owners of the cows were fined, but there was no power to order their transfer from that particular place, and he and his family suffered from illness for months together. The case struck me as a real grievance which the Legislature ought to remove, and I think it was at my suggestion that this provision was inserted. A similar nuisance might arise from the near presence of hackney carriage horses and bullocks belonging to bullock carts, and it strikes me that, if a provision of this kind is made applicable to milch-cows, it ought to be extended also to bullocks and hackney carriage horses. It is not that, immediately the power is given, the Corporation will take action, but the power is conferred upon the Corporation, and when there are occasions the power will be used. I do not see that there ought to be any objection to this."

The motion was then put and lost.



## SECTION 459.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "Corporation" be substituted for the word "Chairman" in line 1 of section 484 (*now* 459).

He said:—"Section 484 (*now* 459) provides—

'The Chairman may from time to time set apart suitable places vesting in the Corporation for use by the public for bathing, for washing animals or for drying clothes, and may from time to time, by public notice, prohibit the use by the public for any of the said purposes of any place not vesting in the Corporation.'

"And the next section 485 (*now* 460) provides:—

'(1) The Chairman may, by public notice, regulate the use by the public of—

(a) any place vesting in the Corporation which is set apart by him for any purpose under section 484 (*now* 459), and

(b) any place not vesting in the Corporation which is used with his acquiescence for any purpose mentioned in that section.

(2) In the case of any place set apart or assigned for bathing, the Chairman may, in the said notice, prescribe the places of bathing for persons of each sex.'

"I suggest that the power of setting apart the places under this section should be vested in the Corporation. If my hon'ble friend will not, consent to vest this power in the Corporation, I would suggest that the General Committee should set apart suitable places. I do not wish to interfere with an executive matter, namely, that the Chairman may regulate the use by the public of any place vesting in the Corporation, &c. It is an order passed once for all. It is an order which concerns public convenience, and it strikes me that the representatives of the public ought to have something to say about it. I am prepared to modify my amendment by putting in 'the General Committee' instead of 'the Corporation.'

The Hon'ble MR. BAKER said:—"I think it best to leave it to the Chairman. Plainly, it is not a matter in which we can entertain the motion of substituting 'the Corporation' for 'the General Committee.' There is less objection to that, but I think it is better on the whole to leave it as it is."

The motion was then put and lost.

## NEW SECTION.

The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion, standing in his name, that the following section be inserted after section 491 (*now* 466):—

"491A. The Corporation, at the instance of the General Committee, may set apart any area specified in any notice issued in that behalf in which no business referred to in section 491 (*now* 466) shall be carried on;"

and, in substitution therefor, moved the following:—

(1) that the following section be inserted after section 492A (*now* 468):—

"492B. (1) The Corporation, at the instance of the General Committee, may give public notice of their intention to declare that in any area specified in the notice no person shall use any premises for any of the purposes referred to or mentioned in section 491 (*now* 466).

(2) No objections to any such declaration shall be received after a period of one month from the publication of such notice.

(3) The General Committee shall consider all objections received within the said period, and shall then report to the Corporation, who may thereupon make a declaration in accordance with the notice published under sub-section (1).

(4) Every such declaration shall be published in the Calcutta Gazette, and shall take effect from the date of such publication.

(5) No person shall in any area specified in any such declaration use any premises for any of the purposes referred to or mentioned in section 491."

(2) that in the tabular statement annexed to section 602 (*now* 574) the following be inserted:—

"Section 492B (*now* 469), sub-section (5).

Using premises in declared area for any purpose referred to or mentioned in section 491 (*now* 466). Fifty rupees."

(3) that in the tabular statement annexed to section 603 (*now 575*) the following be inserted:—

"Section 492B ( <i>now 469</i> ), sub-section (5).	Using premises in declared area for any purpose referred to or mentioned in section 491 ( <i>now 466</i> ).	Five rupees."
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He said:—"The last two amendments are consequential to the first one, and I understand the Hon'ble Member in charge of the Bill accepts them."

The Hon'ble MR. BAKER said:—"I accept these three amendments."

The motions were severally put and agreed to.

#### SECTION 468.

The Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion, standing in his name, that in section 492A (*now 468*), sub-section (2), the words subject to the control of the Corporation "be inserted after "shall."

#### SECTION 470.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the Corporation" be inserted after the words "the General Committee may" in line 20 of sub-section (1) of section 493 (*now 470*).

He said:—"The sub-section gives power to the General Committee to direct discontinuance of the use of premises for certain trades near dwelling-houses. That is the power which is given to the General Committee; and then, Sir, if the General Committee is satisfied of the existence of the nuisance, it may, by written notice, require the occupier of such premises to discontinue such nuisance within a month after service of the notice. Then, Sir, we have this provision in sub-section (2):—

"When the use of any premises for any of the purposes aforesaid has been discontinued in pursuance of such a notice, no compensation shall be payable for loss arising from such discontinuance, but the Corporation shall be bound to purchase both the land and the buildings from the owner; and, if the Corporation are unable to agree with the owner as to the price to be paid, the land and building, may be acquired under the Land Acquisition Act, 1894."

"That is a very serious matter. 'The Corporation shall be bound to purchase both the land and the building'; and I think, Sir, it is right that, when the Corporation has to incur a large expenditure, the proceedings which lead to that large expenditure should be proceedings subject to the supervision of the Corporation, and the approval of the Corporation should be taken. The Corporation has to incur the expenditure; that expenditure may be very considerable, if the expenditure is expenditure to be paid as compensation for land and buildings. That being so, the proceedings which lead up to that expenditure ought to be taken subject to the control of that authority which incurs the expenditure."

The Hon'ble MR. BAKER said:—"Yesterday, Sir, I explained that I should oppose every amendment which seeks to transfer authority from the General Committee or the Chairman. This is one of those provisions, and I do not propose to enter into my reasons for opposing it over again. I explained yesterday that it was a matter of principle that the assignment and distribution of powers which was made by the Select Committee should be adhered to, and I see no reason whatever for making an exception in this case. On the contrary, in this case there is not only the authority of the Select Committee, but there is also the greater authority of the Calcutta Building Commission, by which this section was originally drafted and which assigned this power to the General Committee and not to the Corporation."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I understand that in politics—and I have for my authority the greatest political philosopher that ever lived, namely, Edmund Burke—when a general principle is laid down, that principle has to be modified by reference to the circumstances under



which it is sought to be applied. Burke even goes so far as to say that there is no such thing as a general principle in politics. The great question is the question of expediency which dominates all political considerations. Therefore, Sir, my hon'ble friend is entitled to his principles, and when he has formed them we are bound to respect his principles; but may I not ask him to judge his principles in each particular case by the circumstances of that particular case? I think, Sir, it is rather a dangerous thing to lay down a principle of universal application. I think, Sir, we are entitled to ask my hon'ble friend in the responsible position which he occupies as the Member in charge of this Bill to consider his principle, however inexorably wedded he may be to that principle, in each case by a reference to the actual circumstances of that case. I think, Sir, we are entitled to make that appeal to him, and, if we make that appeal to him, we are entitled also to ask that he will respond in a manner becoming his position. I say here the circumstances are such as to call for a modification of my hon'ble friend's principle. As I said just now, the expenses have to be borne by the Corporation; and the expenses may be very large. Is the Corporation simply to be a sort of mechanical instrument for the purpose of payment of certain expenditure without being able to control that expenditure? I am perfectly certain we do not want to place the Corporation in that position, and, if the Corporation has to pay, it ought to control the expenditure it has to incur."

The Hon'ble THE PRESIDENT said:—"The General Committee cannot move in this matter without funds. I assume it is bound by some budget provision."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I do not think there will be a provision of this kind. There may be contingencies, but this is somewhat of an extraordinary expenditure."

The Hon'ble THE PRESIDENT said:—"The funds will have to come from somewhere."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"They will have to take the consent of the Corporation."

The Hon'ble THE PRESIDENT said:—"In that way they must move within the limits of the sums that are placed at their disposal by the Corporation. You can incur no expenditure without funds."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"There may be no such head in the budget as framed."

The Hon'ble MR. BAKER said:—"Then they will have to get special sanction from the Corporation before they can acquire the land."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If there is sanction; but you do not allow them to do that."

The Hon'ble MR. BAKER said:—"They cannot incur any expenditure in excess of the budget grant without the express sanction of the Corporation. That is provided in section 120 (now 126)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"You probably may not want a budget grant in respect of a matter like this. We have not got a budget head of that kind, and it is not a thing which is likely to be covered by contingencies. The expenditure may be Rs. 30,000, and it would not be covered by contingencies."

The Hon'ble MR. BAKER said:—"There is no intention that it should. If the General Committee wish to take action under this section, and if they find it necessary to acquire any land or building, they will have to get the sanction."

of the Corporation to the expenditure involved. That is provided for by section 120 (*now* 126) of the Bill."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The sanction of the Corporation will have to be obtained to the expenditure. If the sanction has to be obtained to the expenditure, I think the Corporation should be entitled to ask whether this is fair expenditure or not, and therefore the Corporation should be entitled to ask whether the expenditure cannot be reduced. I think these are legitimate questions to ask on the part of the authority which controls expenditure. I think, Sir, if a Bill came before Your Honour as Lieutenant-Governor in respect of any matter of administration, I am perfectly certain Your Honour would be entitled to know all about it, and Your Honour would be entitled to reduce the Bill if you thought it excessive. Therefore, that being so, and the Corporation being the controlling authority as regards expenditure, it ought to have something to say with regard to the circumstances which led up to the expenditure. My hon'ble friend forgets the fact that financial control involves all other kinds of control. Give the financial control to a particular body, and you do not know how many other kinds of control are involved in it. The House of Commons does not exercise anything more than financial control, and it is a sovereign body."

The Hon'ble MR. BAKER said:—"The Hon'ble Member appears to be riding his hobby of financial control to death. He seems to argue that everything which involves any expenditure shall have the sanction of the Corporation, not only to the incurring of the expenditure, but also in all its administrative aspects. That is just the difference here. Before the General Committee can incur any expenditure under this section, they will have to get the funds from the Corporation, either by a budget provision or otherwise. There is no reason whatever for requiring the sanction of the Corporation to the administrative action of the General Committee in issuing an order under this section."

The Hon'ble THE PRESIDENT said:—"I should like to give an illustration. Suppose the Secretary wants to buy certain books for the official library; I do not ask him any questions as to the particular books he buys, so long as he keeps within his allowances, and that is what will happen in this case."

The motion being put, the Council divided as follows:—

*Ayes 5.*

The Hon'ble Babu Jatra Mohan Sen.  
The Hon'ble Babu Boikanta Nath Sen.  
The Hon'ble Babu Surendranath Banerjee.  
The Hon'ble Mr. Apcar.  
The Hon'ble Dr. Asutosh Mukhopadhyaya.

*Noes. 12.*

The Hon'ble Mr. Buckley.  
The Hon'ble Mr. Buckland.  
The Hon'ble Mr. Handley.  
The Hon'ble Rai Durga Gati Banerjee, Bahadur.  
The Hon'ble Mr. Mackenzie.  
The Hon'ble Mr. Spink.  
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.  
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.  
The Hon'ble Mr. Oldham.  
The Hon'ble Mr. Baker.  
The Hon'ble Mr. Bolton.  
The Hon'ble Mr. Slack.

So the amendment was lost.

SECTION 472.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "with the sanction of the Corporation" be inserted after the word "Chairman" in line 5 of sub-section (4) of section 494 (*now* 472).

He said:—"The principle is the same as in the previous case, and I suppose the Hon'ble Member will object. My friend has enunciated one principle. I have got another to enunciate, and of course I am not prepared to give up my



principle. I am prepared to hold by my principle with quite the same degree of tenacity with which my friend adheres to his, with this difference that, I am prepared to modify it according to circumstances, which my friend is not prepared to do. This is an amendment which covers very much the same ground. Sub-section (4) of section 494 (*now* 472) provides:—

‘But if it appears that there has been no contravention of the said sub-section, the said expenses and compensation for any damage occasioned by the said laying open and examination shall be paid by the Chairman.’

“I suggest that it should be paid with the sanction of the Corporation.”

The Hon'ble MR. BAKER said:—“I do not think it necessary to say very much on this motion. In the circumstances mentioned in this section, the payment of compensation is compulsory. Therefore, it makes not the slightest difference whether the words ‘with the sanction of the Corporation’ are inserted or not. The action of the Chairman is really ministerial.”

The motion was then put and lost.

#### SECTION 478.

In the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN moved, on behalf of the former, that the words “and the Local Government” in section 502 (*now* 478) be omitted.

He said:—“I have much pleasure in moving this amendment on behalf of Raja Ranajit Sinha Bahadur, of Nashipur. This refers to the closing of municipal markets and municipal slaughter-houses, and the amendment has a tendency to strengthen the executive; and I think the Hon'ble Member in charge of the Bill will have no hesitation in accepting it, because it will authorize the Chairman, with the sanction of the Corporation, only to take action, and it will relieve the Chairman from getting a further sanction from the Local Government.”

The Hon'ble MR. BAKER said:—“I accept the amendment.”

The motion was put and agreed to.

#### SECTIONS 485, 486, 487 AND 488.

The Hon'ble BABU SURENDRANATH BANERJEE moved that wherever the word “market” or the word “market-place” occurs in sections 507, 507A, 507B and 508 (*now* 485, 486, 487 and 488), the words “or bazar” be added after such word.

He said:—“I find that this amendment, which stands against my name, partly covers the amendments about which the Hon'ble Member in charge of the Bill has given notice. The only difference is that he has not given any notice in respect of section 507 (*now* 485).”

The Hon'ble MR. BAKER said:—“Item No. 4 in the seventh supplementary list covers that section.”

The Hon'ble BABU SURENDRANATH BANERJEE said:—“The object of this amendment is this. You provide for market-places, slaughter-houses, etc., and you give the Chairman power to pass orders regarding the paving, cleansing, etc., so far as the market-places are concerned. But take China Bazar; that is not a market-place; it is not a slaughter-house, and, if the word ‘bazar’ was not inserted in the sections in which I propose it should be inserted, the result would be that the Chairman and the Municipality would have no control over the cleansing and paving and other sanitary arrangements of such places as China Bazar. There may be other bazars, and, therefore, it is necessary that the word ‘bazar’ should be inserted after the word ‘market’ or ‘market-place’ in sections 507, 507A, 507B and 508 (*now* 485, 486, 487 and 488).”

The Hon'ble MR. BAKER said:—"I have four amendments which follow on the same lines as the one moved by the Hon'ble Babu Surendranath Banerjee. My amendments have been drafted by the Secretary, and perhaps the Hon'ble Member will not mind waiving his amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I withdraw my amendment in favour of the Hon'ble Mr. Baker's."

The Hon'ble MR. BAKER moved—

- (1) that in section 507 (*now* 485) the word "bazar" be inserted after the word "market" and after the words "market-place" wherever they occur;
- (2) that in clauses (a) and (b) of section 507A (*now* 486), the words "or any bazar" be inserted after the words "any private market;" that in clause (b) of the same section the words "or bazar" be inserted after the words "such market;" and that in clause (b) and sub-section (2) of the same section the words "or bazar" be inserted after the words "the market;"
- (3) that in the opening clause of section 507B (*now* 487), the words "or any bazar" be inserted after the words "any private market;" and that in clauses (a) and (b) of the same section the words "or bazar" be inserted after the words "such market;"
- (4) that in clauses (a), (c) and (d) of section 508 (*now* 488), the word "bazar" be inserted after the words "market-place;" that in the said clause (a) the words "or bazar" be inserted after the words "any market;" that in clause (b) of the same section the word "bazar" be inserted after the word "market;" and that in clause (e) of the same section the words "market-places and bazars" be substituted for the words "and market-places."

The Hon'ble MR. BAKER's motions were put together and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE then, by leave of the Council, withdrew his amendment.

#### SECTION 497.

The Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion, standing in his name, that in section 517B, sub-section (1b), [*now* section 497, sub-section (3)], the words "subject to the control of the Corporation" be inserted after "shall." He explained that he withdrew the motion because similar amendments had been lost.

In the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN moved, on behalf of the former, that the word "Corporation" be substituted for "General Committee" in sub-section (1b) of section 517B [*now* sub-section (3) of section 497].

He said: "This section refers to the registration of shops and places for retail sale of drugs. If there is a refusal to register an appeal is provided. The clause reads:—

'If any person is dissatisfied with such refusal, he may appeal to the General Committee, whose decision shall be final.'

"The amendment proposes that the appeal shall be to the Corporation. The Corporation being supposed to be the largest representative as it were of the Municipality, the appeal ought to be made there."

The Hon'ble MR. BAKER said:—"I can add nothing to what I said this morning about appeals lying and not lying to the Corporation. This certainly is a case in which the appeal must lie to the General Committee."

The motion was then put and lost.



## SECTION 502.

In the absence of the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN moved, on behalf of the former, that the word "oil" be inserted after the word "butter" in line 5 of section 519 (*now* 502).

He said :—"Sir, Section 519 (*now* 502) provides:—

'It shall be the duty of the Chairman to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.'

"Several articles are mentioned, but oil is not mentioned, and I think this amendment ought to be accepted."

The Hon'ble MR. BAKER said :—"I accept the amendment."

The Hon'ble THE PRESIDENT said :—"It is only oil that is fit for food. It does not, I presume, apply to kerosine oil?"

The Hon'ble MR. BAKER said :—"That is provided for by the words 'and intended for human food,' further on in the section."

The motion was put and agreed to.

## SECTION 513.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "other than a public hospital" in line 4 of sub-section (1) of section 533 (*now* 513) be omitted.

He said :—"The section imposes an obligation upon private medical practitioners to report cases of dangerous disease to the Corporation, but public hospitals are eliminated from this obligation. The section says:—

'(1) Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease in any private or public dwelling, other than a public hospital, shall give information of the same with the least practicable delay to the Health Officer.

'(2) The said information shall be communicated in such form and with such details as the Health Officer, with the consent of the Chairman, may from time to time require.'

"I do not see why a public hospital should be exempted from the obligation of giving information. I know that that is the present law; but, Sir, as the law is about to be revolutionised, it might be changed also in this matter. I do not see why public hospitals should be exempted from this obligation. I know they send information, but still it ought to be a statutory obligation, and they ought to be called upon to send the same information which every private medical practitioner and other persons have to supply."

The Hon'ble MR. BAKER said :—"Public hospitals are in charge of Government officers, and Government requires them to furnish whatever information is necessary to the Health Officer under its own orders. It is not necessary to impose a statutory obligation upon them. As the Hon'ble Member has said, there is no such statutory obligation under the present Act, and no case has been made out for making any change."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said :—"Am I to understand that it is disrespectful for Government to submit its servants to a statutory obligation? I do not think so at all. Government servants ought not to be exempted. I think Government ought to consent to a statutory obligation being imposed upon its officers to report these cases to the Health Officer."

The motion was then put and lost.

## SECTION 515.

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "clothes" in line 4 of sub-section (1) of section 535 (now 515) the following words be inserted:—

"or for any other purpose."

He said:—"I shall read the section with the words inserted.

'535 (now 515). (1) If it appears to the Chairman that the water in any well, tank or other place is likely, if used for drinking or for the washing of clothes, or for any other purpose, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for the purpose of drinking or of washing clothes.

'(2) No person shall remove or use, for the purpose of drinking or of washing clothes, any water in respect of which any such public notice has been issued.'

"I think there is a practical difficulty in the way of this section. A tank is considered to be dangerous, the water is considered to be polluted, and you prohibit the removal of the water for purposes of drinking and washing. What is the guarantee that the water, being removed for some other purpose, would not be drunk as good water? A person takes water from the tank and says:—'I am not going to use that water for drinking or washing, but for other purposes,' and you allow him to remove the water. He takes the water home and drinks it. What is there to prevent his doing that? It seems to me that, if you have a section like this, in actual working it is capable of being evaded in the simplest way; and it strikes me if you rule that the water shall not be removed under any circumstances, whether for purposes of drinking, washing or for any other purpose, you introduce an effective safeguard against the spread of infection; and I desire to remind the Council of the presence of plague in the town, and, having regard to that fact, it is necessary to render the section stringent in the interests of sanitation. I want to render it stringent in order that it may not be evaded. The section, as it stands, affords the amplest facilities for evasion. Water may be removed ostensibly, not for drinking or washing purposes, but, being removed, it may be drunk, and it may be used for washing purposes. The lowest class of the people do not understand the danger that lurks in water of this kind for drinking purposes, and they are prepared to tell a falsehood in order to get over an inconvenience. It strikes me, therefore, that the mandate of the law should be that under no circumstances should water, which is pronounced dangerous or infectious, be permitted to be removed."

The Hon'ble MR. BAKER said:—"The amendment, as it stands, will not have the effect that the Hon'ble Member intends. It will be necessary also to omit the last line of sub-section (1), and the words 'for the purpose of drinking or of washing clothes,' both in sub-section (1) and in sub-section (2)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am prepared to do that."

The Hon'ble MR. BAKER said:—"The Chief Secretary points out that there is another objection also to this amendment, which is that it would prevent you from using the water for watering gardens and matters like that. So far as I am concerned, if the words 'for the purpose of drinking or of washing clothes' are left out where they occur in sub-section (1) and sub-section (2), then I have no particular objection to the section."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I accept that. A garden is a luxury, and persons who have gardens can afford to get water from elsewhere."

The Hon'ble MR. BOLTON said:—"If the water is not to be touched at all, there would surely be more danger than if it could be taken out for the purpose of watering roads or streets, fresh water being allowed to come in from rainfall



or drainage. By not removing the water you really perpetuate your source of disease."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"If we have got a tank, and this tank is declared to be dangerous and full of bacilli, I think it is dangerous to take it to a garden or to public streets for the purpose of watering. And then, further, what difference would it make in the volume of water of a tank, if it was used for garden purposes? I do not think the quantity of water would be sensibly diminished by such a proceeding. The point of view from which I look at it is that ignorant people would be coming in contact with the water and spread the disease by doing something which is harmful to themselves, and I think we ought to protect them against that."

The Hon'ble MR. BAKER said:—"I think the balance of advantage on the whole is in favour of leaving the section as it stands."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I press the amendment, subject to the alteration which the Hon'ble Member in charge of the Bill has suggested."

The motions being put, the Council divided as follows:—

*Ayes 7.*

The Hon'ble Babu Jatra Mohan Sen.  
The Hon'ble Babu Boikanta Nath Sen.  
The Hon'ble Babu Surendranath Banerjee.  
The Hon'ble Mr Apear.  
The Hon'ble Dr. Asutosh Mukhopadhyaya.  
The Hon'ble Mr. Mackenzie.  
The Hon'ble Mr. Spink.

*Noes 10.*

The Hon'ble Mr. Buckley.  
The Hon'ble Mr. Buckland.  
The Hon'ble Mr. Handley.  
The Hon'ble Rai Durga Gati Banerjee, Bahadur  
The Hon'ble Sabibzada Mahomed Bakhtyar Shah.  
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.  
The Hon'ble Mr. Oldham.  
The Hon'ble Mr. Baker.  
The Hon'ble Mr. Bolton.  
The Hon'ble Mr. Slack.

So the amendments were lost.

SECTION 518.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "shall" be substituted for the word "may" in line 1 of sub-section (2) of section 538 (now 518); that the words "in any case in which he thinks fit" in line 2 of the same sub-section be omitted; and that the word "any" be substituted for the word "substantial" in line 3 of the same sub-section.

The Hon'ble MR. BAKER said:—"If the Hon'ble Member is willing to omit the last part of his amendment, I will accept the first part. The last part is that the word 'any' be substituted for the word 'substantial' in line 3 of the same sub-section."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I accept it, because that is all that I can get."

In the course of the debate the Hon'ble Mover withdrew the amendment that the word "any" be substituted for the word "substantial" in line 3 of the sub-section.

The motion in the amended form was then put and agreed to.

The above motion having been carried, the Hon'ble BABU BOIKANTA NATH SEN, in the absence of the Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur,

by leave of the Council, withdrew the motion, standing in the name of the latter, that the following be substituted for sub-section (2) of section 538 (*now* 518):—

“The Chairman shall pay compensation for any hut or shed destroyed under sub-section (1).”

The Hon'ble MR. BAKER said:—“This is covered by the amendment which has just been accepted.”

In the absence of the Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur, the Hon'ble BABU BOIKANTA NATH SEN, on behalf of the former, moved that the words “with any order of the Chairman refusing to pay compensation or” be omitted from the proviso to sub-section (2) of section 538 (*now* 518).

The Hon'ble MR. BAKER said:—“I accept the amendment. It follows necessarily the amendment of the Hon'ble Babu Surendranath Banerjee.”

The motion was put and agreed to.

#### SECTION 520.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the words “he thinks fit,” in line 1 in clause (b) of section 540 (*now* 520), the words “the parties are too poor to pay” be substituted.

He said:—“I have a substituted motion for this one. The amendment will run as follows:—

“That for the words “he thinks fit” in line 1 in clause (b) of section 540 (*now* 520), the words “he is satisfied that the parties are too poor to pay” be substituted.”

“The Hon'ble Member in charge of the Bill is willing to accept the motion if I modify it in the way in which I have just suggested. I have no objection to this amendment, and I beg to move that it be substituted in place of the original one.”

The Hon'ble MR. BAKER said:—“I accept this amendment.”

The motion was put and agreed to.

#### SECTION 524.

The Hon'ble MR. BAKER moved that in sub-section (2) of section 544 (*now* 524) the words “without the sanction of the Chairman” be inserted after the word “lawful.”

He said:—“This section provides for special conveyances for patients suffering from dangerous diseases. It was pointed out that in the plague scare last year the employment of ambulances for the removal of patients suffering from plague gave rise to a good deal of public excitement. A similar difficulty might occur at some future time, and it is intended to provide that it shall not always be necessary to use the special conveyances if for any particular reason it is inexpedient to do so.”

The motion was put and agreed to.

#### SECTION 526.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words “Corporation, with the sanction of the” be inserted after the word “the” in line 3 of sub-section (1) of section 546 (*now* 526).

He said:—“There is no reference to the Local Government in the existing law. There is mention of the Local Government in the corresponding section of the Bombay Act. All that the Local Government ought to do is to exercise the power of supervision, and I provide for that in my amendment. I quite



admit that, this being a matter of Provincial concern, there ought to be uniformity in the forms used; but the necessary safeguard will be provided when the form is settled under the supervision of the Local Government. The authority of the Local Government is not discarded, but the authority of the Corporation is introduced. These forms ought to be settled by the Corporation, subject to the supervision of the Local Government. The direct intervention of the Local Government is not required in a matter of this kind: all that is necessary is that the forms should be provided subject to the approval of the Local Government."

The Hon'ble MR. BAKER said:—"The Hon'ble Member has himself given the answer to his amendment. This is a matter of vital statistics. It is not a matter of local concern, but of Imperial concern. The forms must be more or less uniform over the whole of India, and must be therefore prescribed by the superior authorities. There is no sort of reason other than a sentimental one for bringing in the authority of the Corporation at all in a matter of this sort."

The Hon'ble BABU SURENDRANATH BANERJEE in reply, said:—"My reasons are practical. Under the present Act the Local Government exercises no supervision over these forms. The forms of the registers are settled by the Corporation. How is it that the work has gone on in this way during the last 20 or 30 years without any difficulty? Admitting that it is a matter of Provincial concern, the Corporation would submit the forms to the Local Government, and the Local Government may prescribe the forms. Uniformity is thus provided; the traditions of the Corporation are preserved; and I do not see that there is any real reason for altering the existing procedure."

The motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the words "Corporation, with the sanction of the" be inserted after the word "the" in line 3 of sub-section (2) of section 546 (*now* 526).

He said:—"This is practically the same amendment. These are questions of principle, and I feel it to be my duty to press the amendment on the consideration of the Council. The reasons for this amendment are the same as for the last one."

The Hon'ble MR. BAKER said:—"I have nothing to add to what I said just now."

The motion was put and lost.

#### SECTION 529.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "Corporation with the sanction of the" be inserted after the word "the" in line 4 of sub-section (1) of section 549 (*now* 529).

He said:—"There is no mention of the Local Government in the existing Act. These are merely forms, and the reason for my amendment is the same."

The motion was put and lost.

#### SECTION 557.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for clause (a) of section 585 (*now* 557) the following be substituted:—

"The expression 'Collector' shall include any officer specially appointed by the Local Government to perform any of the functions of a Collector under the said Land Acquisition Act."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 585 (*now* 557), clause (a), the words "and any officer specially appointed by him, with the approval of the Local Government, to perform all or any of the functions of a Collector under the said Land Acquisition Act" be omitted. He said that his motion that clause (a) of section 585 (*now* 557) be omitted logically came first.

This proposal having been objected to by the Hon'ble Babu Surendranath Banerjee, his motion given above was proceeded with.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"This and the other amendments relate to a question which the Hon'ble Member in charge of the Bill will bear out have excited a large measure of public attention. If my hon'ble friend consults the various petitions addressed to the Government, he will find that almost every one of them has reference to this particular section. Rightly or wrongly, the Indian public regard these provisions relating to land acquisition as involving grave injustice and serious danger to the rate-payers, and it is my duty to press the arguments which occur to me in regard to this matter with as much emphasis as I can command. I hope my hon'ble friend will consider the question free from any preconceived ideas. The arguments in favour of my amendment are so convincing that I feel I have only to state them in order to carry home conviction. Under Act X of 1871, section 7 read with the explanation given of the expression 'Collector,' it would appear that the Local Government has the power at present of appointing anybody it pleases as a Collector under that Act."

The Hon'ble MR. OLDHAM:—"That law is obsolete. The present law is Act I of 1894."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The same. It says:—

'The expression "Collector" means Collector of the district and includes a Deputy Collector or any officer specially appointed by the Local Government to carry out the functions of a Collector under this Act.'

The Hon'ble BABU SURENDRANATH BANERJEE continued:—"Thus the Local Government may appoint the Chairman of the Corporation or anybody nominated by the Chairman as a Collector under the Act. Therefore, in the first place, clause (a) of section 585 (*now* 527) of the Bill is unnecessary, and not only unnecessary, but positively dangerous. The Local Government is never likely to appoint the Chairman to be a Collector for the purposes of land acquisition in Calcutta. It is inconceivable that the Local Government will lend itself to any proceeding the effect of which would be to make the Chairman a judge in his own case. It is inconceivable, for instance, that the Local Government would appoint the Manager of a Railway Company or anybody connected with the management of a railway to have anything to do with the acquisition of land for that railway. The thing would be precisely the same as the appointment of the Chairman for the purpose of acquiring any land for the Corporation. The Chairman is the executive officer of the Corporation; and he is to be made a judge in his own case. It seems to me impossible that the Local Government would do any thing of the kind; but here there is a section the effect of which would be to make the Chairman a Collector under the Land Acquisition Act for purpose of acquiring land for the Corporation, or to empower him to appoint somebody to perform these duties on his behalf. My hon'ble friend may say that the Chairman will never be the Collector, that he will never acquire any land himself. That may be the intention of my hon'ble friend, but every law must be interpreted according to the wording of the law. If my hon'ble friend says it is not intended that the Chairman is to be Collector in any case in which land is to be acquired in Calcutta, I ask him to point out the specific words which make that intention clear. If that is the intention, it ought to be clearly expressed in so many words. My hon'ble friend will probably say that the object is to expedite matters, and all that the Chairman will probably do will be to appoint some Deputy Collector to do the work under his direction; but what guarantee is there that the Chairman will not appoint one of his own officers to act for him—the Assessor, for instance, or one of his assistants? My hon'ble friend may say that it is not intended that the Chairman should appoint any one subordinate to him; but I venture to traverse even the last position taken up by my hon'ble friend. This matter was discussed in one of the Select Committee's meetings, and it was said that the Chairman would make the appointment instead of asking the Collector of the 24-Parganas to do so. But the person appointed by the Chairman will be subordinate to him; he will owe his appointment to the Chairman and feel himself under special obligations



to him and will do his best to please the Chairman. I ask, is it right and proper in a matter involving proprietary rights that a person should be appointed to deal with such cases and be a judge in regard to them who would be subordinate to the Chairman? I say that he should be absolutely independent. He ought not to owe his appointment to the Chairman; he should be perfectly free from any sense of obligation to the Chairman. The section is a dangerous one, one which is likely to be attended with abuse, and it has therefore excited the deepest apprehension, and we are bound to take note of such a feeling. The Bill has struck terror into the hearts of the people, and the land acquisition sections especially have excited the fears of the people—fears which may or may not be justified. But I have no hesitation in saying that it will be disastrous if this measure is thus heavily handicapped with the weight of adverse opinion and adverse sentiment. I hope my hon'ble friend will relieve the anxiety which at present fills the public mind in connection with these sections of the Bill. This is no exaggerated statement. It is no exaggeration of speech to say that this section and other sections to which reference will be made later on have filled the public mind with anxiety and alarm. These fears may be groundless; but there they are. My hon'ble friend may say that these sections are recommended by the Building Commission. I have not the smallest desire to belittle the work of the Building Commission; but these provisions were steadily opposed by the Indian representatives on that Commission. I have talked the matter over with one of the members of the Commission, and he gave me the assurance that these sections were opposed by the Indian members of the Commission. These recommendations are the recommendations of a majority of the Commission which was composed of European officials. I wish to speak of the officials of the land over whom Your Honour presides in terms of the highest respect; but they labour under a great disadvantage. They do not possess an acre of land in Calcutta, and I am afraid they are not in sympathy with the owners of property in Calcutta. But the representatives of property on that Commission strongly resisted the change made in the Land Acquisition Act. The dissentients represented the proprietary interests of the town, and further Your Honour has not accepted all the recommendations of the Building Commission. You have omitted part of their recommendations. I will read to the Council an important recommendation which they made and which has not been embodied in the Bill, but was rejected by the Government. It is to be found in page 40 of their Report. They there say:—

'We think power should be given to acquire a portion only of a house or manufactory or other building.'

"That forms, and I think very properly, no part of this Bill. My first point is that the section now under consideration does not represent the unanimous opinion of the Building Commission; secondly, that it was opposed by the representatives of the landed interest on the Commission; and, lastly, my contention is that the opinion is of the nature of a very halting recommendation. The Building Commission made this recommendation in a hesitating and indecisive way; it is merely a suggestion, and I submit it should not be accepted by the Council, especially when it has filled the public mind with alarm; and further it should not be accepted when it makes the Chairman of the Corporation a judge in his own case. The Commission say:—

'In order to avoid a portion of the delay which inevitably takes place, we think the Chairman of the Corporation should be declared to be the Collector in all land acquisition cases within the Municipality; and, as it is unlikely that he would have time to perform the functions of the Collector, he ought to have power to delegate them.'

"Those are the terms in which the opinion of the Building Commission is expressed. In this connection I desire to point out that this is not the law in Bombay; it is not the law in Madras; it is not the law in vogue in any Municipality in the Province over which Your Honour presides; it is not the law in the North-Western Provinces; it is not the law in the Punjab, which in the opinion of Mr. Risley is the most advanced law relating to municipalities, but which in my opinion is the most retrograde. Therefore, we have the fact that this provision does not find a place in any municipal system in India. Nor is this all. It does not find a place in the English Public Health Act, to which my hon'ble

friend in charge of the Bill is so fond of referring. Therefore, the position is this—that we are enacting into law provisions which are unique, unprecedented and unlike those of any legislative enactment in force anywhere. Where is the justification for such a provision? Where are those great delays which are said to have taken place in consequence of which it has become necessary to make the Chairman a judge in his own case? It will not do for my hon'ble friend to shelter himself behind the halting recommendation of the Building Commission. He is going to enact a law which is revolutionary in its character, which has no place in any corresponding legislation in any part of India or of the world; therefore, he must bring facts and figures to justify the passing of such a law. I am not aware of those facts and figures, and I am not prepared to rely on the recommendations of the Building Commission. That may be a factor in the consideration, but it is no justification for the law. The strongest case is necessary to justify such a provision of the law, and I say no case has been made out. It is opposed to all the fundamental principles of justice. If my hon'ble friend says that the Chairman will not act himself, but will delegate his power to some one else, then I object, because the person to whom such powers are to be delegated will be subordinate to the Chairman, will be responsible to the Chairman, and whose strongest motive it will be to please the Chairman. This is a serious matter, and I ask the Council to pause before they pass a provision of such a revolutionary character. I will be content to leave the power with implicit confidence in the hands of the Government, because I know the Government will not do anything wrong, and will not lend themselves to any principle involving the violation of the principles of justice and equity; but the subordinate whom the Chairman might appoint to act for him may be so carried away by gratitude that he may act in a manner which may be opposed to justice. What is the safeguard? He may act from good motives, but in the exuberance of his zeal to support the Chairman he may not conform to the principles of justice. And where is the guarantee that the Chairman will restrain the excesses of his zeal? Therefore, I beg the Council to ponder carefully over the situation. This is a matter of great importance to the people of Calcutta. In the first place, you are going to enact a law which is not part and parcel of any municipal law; secondly, this provision is opposed to our sense of elementary justice; thirdly, no case has been made out for a provision of such a revolutionary character. All that you can appeal to is the Report of the Building Commission. This portion of the Report, however, was objected to by the representatives of the landed interest. The recommendations of the Commission in this respect are of an indecisive, halting nature. The Government itself has been obliged to disregard one of their recommendations of a somewhat important character. I submit that the recommendation to which my amendment refers deserves a similar treatment at the hands of the Council and of the Government."

The Hon'ble MR. OLDHAM said:—"As the Hon'ble Mover of the amendment has said, the section to which he objects was inserted on the recommendation of the Building Commission. There were two Indian members on that Commission—Babu Kally Nath Mitter and Babu Nalin Bihari Sircar. Babu Nalin Bihari Sircar wrote a dissent which was published with the Commission's report. In that dissent he has not said a word about this proposal of the Commission. Babu Kally Nath Mitter did not at all object. He preferred 20 years' purchase to 25 years; otherwise he has not dissented from this proposal. I am perfectly certain that so sound a lawyer as Babu Kally Nath Mitter cannot have shared the misapprehension to which my hon'ble friend has just given expression in the language of unmistakeable panic. And that misapprehension is so wild a one that there is no course but to begin at the very beginning, and explain how the matter stands—what the scope and object of the Land Acquisition Act are. So far from the Chairman being a judge in his own cause, there are express provisions provided which will control anything an executive officer may do; and, so far from it being an objection that he is interested, it is recognised that he is an interested agent who has to make the best bargain he can. Under the Land Acquisition law there are three bodies—the Government, the District Collector, and the Civil Courts. In the place of the District Collector, another officer may be appointed. When he is appointed,



the District Collector is completely ousted; so that there are only the Government, the Land Acquisition Collector and the Civil Courts. There is no provision for any controlling authority. The work is entrusted to the Land Acquisition Collector, who is always a selected officer, and his proceedings are departmentally controlled at every step; and as a matter of fact the Government Land Acquisition *bureau* is a very extensive one. It begins with the Collector of the district, who controls the proceedings and examines the records. Then there is the Divisional Commissioner, who examines the statements and the final awards. And there is the final control of the Board of Revenue, and under the standing rules the proceedings are not confirmed until the sanction of the Board of Revenue is given, and these rules are prescribed, not by the Land Acquisition Law, but under the authority of different Bengal Regulations. Here in Calcutta the other authorities are the Chairman of the Corporation, and in the case of railways the Railway Agents or Managers and the Consulting Engineers, all of them interested in land acquisition proceedings. They are not judicial authorities. As a matter of fact, as I read the law, this particular provision which has so much alarmed my hon'ble friend may be pronounced to be supererogatory, because it is fully within the authority of the Government to pass orders to the effect of this provision. The only reason why this provision is necessary is in order that the Corporation may know how it stands and to prevent the possibility of conflict with the District Collector. The Land Acquisition Department has no objection to this section as it has been drafted.

"There is a further provision, which is a little peculiar, giving the Chairman power to appoint an officer; but, as this power has to be exercised subject to the approval of the Government, it would be outside the Land Acquisition Department's functions to say anything against it. They keep a register of officers who are fit for these appointments. The effect of passing this provision will be to oust the Collector of the 24-Parganas, who is the District Collector, and the only practical effect will be to prevent any dispute as to action, subordination, and the channel of correspondence, and to shorten the chain. It will not give any land acquisition jurisdiction to the Chairman, because the Chairman could not possibly carry on the duties of land acquisition himself, and a Land Acquisition Deputy Collector must be appointed. Then, according to the rules of the Land Acquisition Department, instead of corresponding with the District Collector at Alipore, he will correspond with the Chairman; then the matter will go to the Commissioner of the Division, and from him to the Board of Revenue. The appointment of an officer by the Chairman I put no stress on, because the Government takes the responsibility. The present rule is for the Department to keep a list of qualified officers and to send three of those names to the Government for selection."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Will the Government make the appointment?"

The Hon'ble MR. OLDHAM said:—"I do not think it necessary to answer, because the Hon'ble Member in charge of the Bill has just told me that he does not care to retain this provision, and I confess it is one which appears rather anomalous to the Land Acquisition Department. I am not defending this particular provision. I do not care if the officer to be appointed in that way drops out."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"That is precisely my amendment which awaits discussion."

The Hon'ble MR. OLDHAM continued:—"The only part which will be omitted will be the provision giving the Chairman power to appoint. The law reads in the very words of my hon'ble friend's amendment. As the law stands, it will be fully in the power of the Government to make this appointment without any special provision in the Municipal Bill, and the only object there could be for inserting such a provision is to clear up any doubt as to what power the officer may exercise under the old Regulations constituting the offices of Collector and Deputy Collector. The effect of this sub-section will be otherwise simply to affirm the existing law. In all cases from the Corporation which come before me—and they have to come before me—I find that the

Chairman has always been the person really interested in the actual proceedings; and the duty of the Collector of the 24-Parganas has been solely the routine duty of looking over the figures. It is quite impossible for the Government in operations involving so much cost to leave them to a single officer. Government has sometimes suffered severe loss owing to the want of discretion in the officer concerned. The Land Acquisition Officer's duty and power of conferring with the superior authorities all along the line is frequently exercised. It is not exercised within the area of Calcutta, because the Collector of the 24-Parganas knows nothing about the conditions of Calcutta, nor is it used in the case of the Commissioner of the Division except in special cases; so the work really comes straight from the Deputy Collector, guided by the advice of the Chairman, direct to the Board of Revenue, and great delay will be saved by appointing the Chairman a Collector under the Land Acquisition Act. For instance, in the case of excess over estimates which frequently occurs, the excess amount must receive the sanction of the Government, and in the case of land required to be taken up by the Corporation, it must receive the sanction of the Corporation. The case first goes to the General Committee, and then to the Corporation, who may take two months over it; it then goes to the Collector of Alipore, and so through a long chain it goes up to the Government till sanction is obtained. I think the Hon'ble Dr. Asutosh Mukhopadhyaya will be able altogether to allay the apprehensions of my hon'ble friend as regards the Chairman being appointed a judge in his own case. He can no more be a judge in his own case than he is at present. He is at present considered an authority whom the Deputy Collector must consult, and it is with his advice that the proceedings are carried on."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I regret to confess that I find myself in a hopeless maze, and I trust that some Hon'ble Member, who is more acute and more learned, will come to my help. I agree with the observations of the hon'ble mover of the amendment; but for the last half an hour I have been endeavouring in vain to discover the meaning of his amendment; I am wholly unable to understand it. What is the object of section 585 (now 557)? The object is to amend the Land Acquisition Act of 1894 so far as may be necessary for the purposes of the Corporation; it says distinctly that any land or building which any municipal authority is authorised under the provisions of this Act to acquire shall be acquired under the provisions of that Act. Then comes clause (a), for which the Hon'ble Babu Surendranath Banerjee wants to substitute the following:—

'The expression "Collector" shall include any officer specially appointed by the Local Government to perform any of the functions of a Collector under the said Land Acquisition Act.'

"Now, let us look at section 3 of the Land Acquisition Act, which says:—

'The expression "Collector" means the Collector of the district, and includes a Deputy Collector and any officer specially appointed by the Local Government to perform the duties of Collector under this Act.'

"Therefore, the definition proposed by the Hon'ble Babu Surendranath Banerjee is identical with the definition given in the Land Acquisition Act; he professes to amend that Act, but simply repeats the language to be found there. His amendment, therefore, as it stands, is obviously tautologous and absolutely unnecessary. Suppose that the amendment is carried; it will not help my hon'ble friend. He protests that the Chairman ought not to be the Judge in his own case; but under the Land Acquisition Act the Local Government may appoint the Chairman to perform the duties of a Collector under that Act. I venture to think, therefore, that the amendment as it stands is meaningless and cannot be accepted, and I would ask the Council to accept instead my amendment that clause (a) of section 585 (now 557) be omitted."

The Hon'ble BABU BOIKANTA NATH SEN said:—"The wording of the amendment before the Council may not be satisfactory, but it cannot be said that it has no meaning. It has this effect—that it will exclude the Chairman from being appointed a Collector under the Land Acquisition Act. With regard to the second provision of sub-section (a) of section 585 (now 557), when the approval of the Local Government will have to be taken, when there is so



much apprehension and sentiment, I do not see what will be gained by retaining it. I put the matter in this light. Is it sound to legislate when nothing particular is to be gained by it, and when on the other hand there is a strong feeling or sentiment on the other side? The decision of the Collector who will be appointed will not be final. The Municipality will not gain anything by it. Other officers may be appointed directly by the Government. Why give power to the Chairman who will be at liberty to delegate his authority and whose appointment will have to be approved by the Government? I submit, therefore, on grounds of expediency, that it is desirable that this amendment should be accepted; but I think it will be much better if the Hon'ble Dr. Asutosh Mukhopadhyaya's amendment that clause (a) of section 585 (*now* 557) be omitted altogether be put first."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I desire to make a personal explanation. I cannot admit that there is any tautology at all. My position is this, that in place of this provision the general law of the land be inserted. If my hon'ble friend calls it tautology, I can only say that my notion of tautology is very different. Mine is a constructive amendment; my hon'ble friend's amendment is a destructive amendment."

The Hon'ble MR. BAKER said:—"I suggest the adoption of the following for clause (a) of section 585 (*now* 557):—"The expression 'Collector' means also the Chairman of the Corporation of Calcutta." That will get us out of all the difficulty, and will provide for the Chairman of the Corporation being ordinarily the Collector for the purposes of land acquisition in Calcutta, in the same way as the District Officer is the Collector ordinarily in a district. The effect will be to oust the Collector of the 24-Parganas. I had something to do with the taking up of land for the construction of the Harrison Road. I was absolutely ignorant of the subject, but it had to go up to me as Collector of the 24-Parganas and also to the Commissioner of the Division. We want to eliminate the Collector of the 24-Parganas and substitute a special officer under the Chairman, as it stood in the original draft of the Bill. Such officer will act generally under the guidance and control of the Chairman, who will be the 'Collector' in the manner and for the reasons explained by the Hon'ble Mr. Oldham.

"With reference to one remark of the hon'ble mover of the amendment that the Local Government will never think of appointing the Chairman to be a judge in his own cause, or the Manager of a railway for taking up land required for the railway, I may mention that the District Officer in Bengal is always Chairman of the District Board, and he is constantly employed for taking up land for roads and other purposes, and there has never been any complaint."

The proposal of the Hon'ble MR. BAKER that clause (a) of section 585 (*now* 557) should run thus:—

"(a) The expression 'Collector' means also the Chairman of the Corporation of Calcutta." was accepted by the Hon'ble DR. ASUTOSH MUKHOPADHYAYA as being practically identical with the amendment moved by him, and was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE then, by leave of the Council, withdrew his amendment.

The Hon'ble BABU SURENDRANATH BANERJEE then moved that the following proviso be added to clause (a) of section 585 (*now* 557):—

"Provided that the Chairman shall acquire such land through a Deputy Collector who shall not be subordinate to the authority of the Chairman."

He said:—"I think it superfluous to make any observations in favour of this amendment, as I believe the principle has been agreed to, that a Deputy Collector is to be appointed by the Government, and is to be subordinate to the Collector. That principle being agreed to, I hope the Hon'ble Member in charge of the Bill will accept this amendment having regard to the public feeling which prevails with regard to this matter."

The Hon'ble MR. OLDHAM said:—"This amendment cannot be accepted. In the first place, the Chairman does not acquire land. The expectation is that the Deputy Collector will act under the guidance of the Chairman. Practically he

is subordinate to the Chairman and will report to him. The effect of the provision just passed is that the Chairman will be appointed Collector, not under the Land Acquisition Act, but under the Regulations which create the offices of Collector and Deputy Collector and govern the relations between the officers so called."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"He may act under the Chairman, but he will not be subordinate to the Chairman in the sense we understand it."

The motion being put, the Council divided as follows:—

*Ayes 4.*

The Hon'ble Babu Jatra Mohan Sen.  
The Hon'ble Babu Boikanta Nath Sen.  
The Hon'ble Babu Surendranath Banerjee.  
The Hon'ble Dr. Asutosh Mukhopadhyaya.

*Noes 13.*

The Hon'ble Mr. Buckley.  
The Hon'ble Mr. Buckland.  
The Hon'ble Mr. Handley.  
The Hon'ble Rai Durga Gati Banerjee, Bahadur.  
The Hon'ble Mr. Apcar.  
The Hon'ble Mr. Mackenzie.  
The Hon'ble Mr. Spink.  
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.  
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.  
The Hon'ble Mr. Oldham.  
The Hon'ble Mr. Baker.  
The Hon'ble Mr. Bolton.  
The Hon'ble Mr. Slack.

So the amendment was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion, standing in his name, that in section 585 (*now 557*), line 3, for "may" be substituted "shall."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that clause (a) of section 585 (*now 557*) be omitted.

He said:—"I am afraid, Sir, that it may be regarded as somewhat ungenerous on my part that I should press this amendment for the total omission of a clause which has just been amended at my instance; but I believe that, if I had been permitted to move this amendment first, it would have saved us all this waste of time. I wish to point out that clause (a) is absolutely unnecessary. As it stands amended, it is to the effect that 'the expression "Collector" shall include also the Chairman of the Corporation of Calcutta.' Now, under the Land Acquisition Act, it is open to the Local Government (even without this provision) to declare that the Chairman is the Collector. This clause, therefore, is clearly superfluous, and my amendment, I hope, will commend itself to the Hon'ble Member in charge of the Bill who objected to several of my amendments on the ground that they were unnecessary. If what is now intended to be enacted is included in Act I of 1894, surely it is needless to encumber the present law."

The Hon'ble MR. OLDHAM said:—"I said in my reply on the previous discussion that the enactment of this provision is not strictly necessary. It was inserted because it was recommended by Mr. Justice Trevelyan's Commission, and it will let people who are concerned know how they stand. And we defend it because of the possibility that without it a conflict may arise between the District Officer governed by the ordinary Revenue rules and the Chairman. I do not defend it on any other ground."

The Hon'ble MR. BAKER said:—"I think it can be defended on another ground. According to the Land Acquisition Act, the expression 'Collector' means the Collector of the district, and the definition goes on to say that it includes any officer specially appointed to exercise the powers of a Collector



under the Act. Here we have it 'the expression "Collector" means also the Chairman of the Corporation of Calcutta,' and his position is defined by the same words as we used to define the position of the Collector of a district under the Land Acquisition Act."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"If that is intended, I am afraid the object in view has not been attained by the amended clause. The insertion of the words 'Chairman of the Corporation of Calcutta' in section 3 of the Land Acquisition Act does not make the Chairman occupy the same position as the District Collector."

The motion was then put and lost.

The Council was then adjourned to Monday, the 25th September, 1899.

CALCUTTA;  
The 16th January, 1900. }

F. G. WIGLEY,  
Assistant Secretary to the Govt. of Bengal,  
Legislative Department.

*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,  
assembled under the provisions of the Indian Councils Act, 1861 and 1892.*

The Council met in the Council Chamber on Monday, the 25th September, 1899.

**Present:**

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal,  
*presiding.*

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. F. HANDLEY.

The Hon'ble MR. F. A. SLACK.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA RANJIT SINHA, BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble MR. J. G. APCAR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.



## THE CALCUTTA MUNICIPAL BILL.

## SECTION 370A.\*

The consideration of the Hon'ble Babu Surendranath Banerjee's and the Hon'ble Mr. Apcar's motion that section 370A be omitted was resumed.

The Hon'ble MR. BAKER read a motion which the Hon'ble Dr. Asutosh Mukhopadhyaya proposed to bring forward, that the following sub-section be added to section 370A, namely:—

“(3) Rules made under this section shall as far as possible follow the provisions of the London Building Act, 1894, relating to party walls, with such modifications (if any) as the Local Government may consider necessary to adapt the said provisions to the circumstances of Calcutta.”

The Hon'ble MR. BAKER said:—“I beg to refer to the amendments moved on Friday, the 22nd September, to section 370A, and to the discussion on the following day. This question, Sir, was adjourned on Saturday, 23rd September, in order to enable those of us who had taken particular interest in it to have an opportunity of considering it. We met yesterday—Mr. Oldham, Mr. Buckley, Mr. Handley, Mr. Apcar, Dr. Asutosh Mukhopadhyaya, the Secretary and myself; and we came to the conclusion that the amendment I suggested on Saturday had better not be accepted. That amendment was to the effect that in the place of the words ‘confer and impose mutual rights and obligations’ there should be substituted the words ‘define and determine the mutual rights,’ &c. We came to the conclusion that these words ‘define and determine’ would neutralise, or go some way towards neutralising, the effect of the section, because what is intended is not merely to define what the existing actual rights are, but to confer such new rights as may be necessary. In order to allay any public apprehension which may have arisen on the subject, I propose, at the suggestion of the Hon'ble Dr. Asutosh Mukhopadhyaya, to insert the following sub-section in the section, namely:—

“(3) Rules made under this section shall as far as possible follow the provisions of the London Building Act, 1894, relating to party walls, with such modifications (if any) as the Local Government may consider necessary to adapt the said provisions to the circumstances of Calcutta.”

“We consider, Sir, that that is as far as we can reasonably go in the direction of meeting the views expressed by the Hon'ble Mr. Apcar. I am afraid it will not altogether meet his views, but at all events it gives a clear indication of the nature of the rules which it is proposed to frame. The amendment has been drafted in the name of the Hon'ble Dr. Asutosh Mukhopadhyaya.”

The Hon'ble THE PRESIDENT said:—“The first motion in regard to this section is a motion of the Hon'ble Babu Surendranath Banerjee that the section be omitted. The Hon'ble Mr. Apcar has a motion to the same effect, and I think the best plan will be to ask the Hon'ble Babu Surendranath Banerjee whether, after hearing this statement, he presses his motion, or whether he would like to hear any further statement from the Hon'ble Dr. Asutosh Mukhopadhyaya.”

The Hon'ble BABU SURENDRANATH BANERJEE said:—“I will just say in connection with this matter that I deeply regret I am not able to accept the amendment, and will briefly indicate my reasons. The amendment, Sir, is to the effect that the rules under this section shall, as far as possible, follow the provisions relating to party walls in the London Building Act. Now, Sir, I am unacquainted with the London Building Act, and I think most Hon'ble Members here are in the same position. We have had no opportunity of considering the London Building Act, and to legislate upon the lines of that Act without knowing its contents is a proceeding which does not recommend itself to my mind. Standing here as a Member of this Council, I cannot allow myself to be associated with any law which is to be on the lines of an Act of which I know nothing. That is my first objection. In the next place, I object to the section because we are taking a leap in

\* The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering is altered.  
S. 370A is referred to by that number, as it was omitted—*vide* discussions, *infra*.

the dark. We do not know the London Building Act, and we leave to the Local Government the power, the entire discretion, of adapting the rules in force under the London Building Act to the circumstances and the conditions of this city. Sir, with all the respect which I feel for the Local Government, and especially for the Government presided over by Your Honour, I am not prepared to give a *carte blanche* to the Local Government in a matter like this, so intimately affecting the habits and conditions of life of the people of Calcutta. I am not prepared to give a *carte blanche* to the Local Government in regard to a matter which might hereafter prove a fruitful and prolific source of litigation. This is a difficult matter; it is a new law, and, that being so, we ought to tread on firm ground. We ought to know what we are doing, and we ought to know exactly what we are legislating about. But we do not know what we are legislating about. We do not know the London Building Act; we do not know how the Local Government will exercise the discretion which will be vested in it. I feel the greatest possible doubt and hesitation in accepting a proposal of this kind. My hon'ble friend says my anticipations cannot be realized. I can only express a pious hope that they will not be realized; but they are there, Sir, all the same. In these matters I am intensely conservative. I want to understand things before I proceed to act upon new suggestions. Therefore, Sir, I cannot allow myself to be identified with a piece of legislation which is really a leap in the dark and about which I know nothing; about which I am afraid my hon'ble friends know nothing (what do they know about the London Building Act?); and I am unable to give the Local Government a *carte blanche* in an important matter like this. I cannot record my vote in favour of this amendment."

The Hon'ble MR. APCAR said:—"Sir, I regret that I am unable to withdraw my opposition to this proposal. I am entirely opposed to this system of legislation; it is legislation by delegation, which to my mind is one of the most objectionable forms of legislation. So far as the London Building Act is concerned, I saw it in the hands of my hon'ble friend Mr. Buckley, but with its provisions and details I am entirely unacquainted. I press this on Your Honour that we should not legislate in the fashion that is proposed, but that this section should be withdrawn, and that, on such an early date as may be found convenient to the Council, there should be a short Bill introduced embodying such provisions as those who are experts in the matter think it is desirable should be passed into law. The building law of London is in the form of a statute, and, after a conversation with my hon'ble friend Mr. Buckley, I am not prepared to accept that. There is not sufficient material for legislation on the subject by this Council. I see no good reason why the present proposal should be adopted, and I certainly cannot withdraw the opposition I have offered to this section, which I think ought to be omitted from the Bill. If a law on the subject is considered to be necessary, the provisions should, I think, be submitted to the Council in the form I have suggested."

The Hon'ble BABU JATRA MOHAN SEN said:—"I also maintain the opposition I raised the other day. By this section we are going to introduce the provisions of the London Building Act, not by enactment, but by certain rules to be made by the executive of the Government. To this I take exception, and I agree with the Hon'ble Mr. Aparcar that, if it is necessary to introduce these provisions in Calcutta, it is advisable that it should be done in the shape of an Act after proper discussion by this Council."

The Hon'ble BABU BOIKANTA NATH SEN said:—"Sir, I fully realize the anxious care that this Council has bestowed on the consideration of this section, but I regret to say I cannot support this amendment, simply because I am ignorant of the London Building Act of 1894. It would be stultifying myself if I were to say that the legislation should be on the lines of the London Building Act of which I know nothing. It is on this ground that I object to this amendment being passed."

The Hon'ble MR. HANDLEY said:—"I confess I do not quite understand the fears and apprehensions of Hon'ble Members. The section as it stood before simply gave the power to the Local Government to make rules at any time. They



might make them now, they might make them six months hence, twelve months hence, or two years hence, or at any other time. It was decided after the consultation yesterday that the rules to be framed by the Local Government should follow generally the rules contained in the London Building Act."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"May I enquire if my hon'ble friend knows all about the London Building Act?"

The Hon'ble MR. HANDLEY said:—"No, I simply read these rules; but I take it this is a power which, as you and all the Members of this Council know, is reserved in almost every Act passed by the Local Government or by the Government of India. This procedure has been adopted in the Imperial Legislative Council for so many years that one can hardly remember when it was not the practice. No doubt Your Honour's Government will give these Hon'ble Members an opportunity of criticising the rules before they are enacted. What more can they wish to have? How can the Council object to rules which are not framed, but which will be in the future? These rules are to be framed, and when they are framed then surely there will be time enough to take objection to them on any particular ground which may be found. As it is now, all the section does is to give the Local Government power to make rules at some time or other. As I understand it, my hon'ble friends would deprive the Government of that power."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I cannot support this amendment on the simple ground that we are not in possession of the provisions of the rules of the London Building Act. I agree with the views of the Hon'ble Babu Surendranath Banerjee and the other Hon'ble Members who have spoken against the introduction of the section."

The Hon'ble MR. OLDHAM said:—"I put the matter in this light: a measure of relief is wanted; it will be still more wanted when the provisions of this Bill have become law. Government must be provided with that measure of relief. It does not know exactly what form it will take; it must be adapted to local circumstances, and meanwhile it pledges itself to follow the best and safest model in the world. That is all the reference to the London Building Act means, and in that view there is no necessity to be acquainted with details."

The Hon'ble MR. BAKER said:—"I am authorized to state that His Honour the President has been impressed by what has fallen from the Hon'ble Mr. Apcar and the Hon'ble Babu Surendranath Banerjee as to their fears regarding the effect of legislating upon this matter by means of rules only. His Honour thinks that the suggestion which has fallen from the Hon'ble Mr. Apcar that there should be a special Act to deal with this matter is one which may well be accepted by Government. His Honour has, therefore, directed me to state that the Government are willing to omit this section from the Bill on the understanding that during the cold weather an Act will be introduced to deal with the subject of party walls."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"We thank Your Honour for consenting to this."

The Hon'ble MR. APCAR said:—"I hope you will allow me to express my obligations to you."

The motion that section 370A should be omitted was then put and agreed to.

The last motion having been carried, the Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

- (1) that at the end of section 370A, clause (a), after the word "party" the word "walls" be inserted;

(2) that to section 370A the following be added:—

“(3) Rules made under sub-section (1) shall have the force of law and shall be binding upon all persons from the date when they may be published in the Calcutta Gazette;”

and the Hon'ble BABU JATRA MOHAN SEN, by leave of the Council, withdrew the motion, standing in his name, that at the end of section 370A, clause (a) after the word “party” the word “walls” be inserted.

#### SECTION 557.

The Hon'ble BABU SURENDRANATH BANERJEE moved that clause (b) of section 585 (*now* 557) be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that clause (b) of section 585 (*now* 557) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE said:—“Section 17 of the Land Acquisition Act is the urgency section of that Act, and I will read it. It is as follows:—

‘In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice, take possession of any waste or arable land needed for public purposes.’

“It is now proposed to extend the operation of this section to unhealthy areas, subject to the reservation that the question as to whether it is an unhealthy area or not will have to be determined by a Magistrate. It comes, therefore, to this: that it is now proposed to extend the application of this urgency section to unhealthy areas, and they will be taken possession of under its provisions. Sir, I desire to point out a distinction between unhealthy areas and waste and arable lands. Upon waste and arable lands there can be no buildings or bustees. Upon unhealthy areas there will be bustees certainly, and buildings probably. No great hardship would be entailed upon anybody by giving effect to the provisions of section 17 in respect of arable and waste lands. But, Sir, it is very hard for the inmates of a bustee to be compelled to leave their homes within fifteen days after notice has been given of the intention of Government to take possession of the bustee or building. And, Sir, you provide for no further compensation so far as this particular matter is concerned. The inmates of the bustee or the inmates of the *pucka* house are obliged to leave within fifteen days after notice has been given. They are put to serious inconvenience, and probably to a good deal of trouble and additional expense. You give them no compensation over and above the 15 *per cent.* which is the regular compensation under the law. Thus the two things stand upon a completely different footing. No hardship is involved in the case of arable and waste lands, but hardship may be involved in the application of this section to bustees and buildings which may be declared by a Magistrate to be located within an unhealthy area.

“And, Sir, I may say that I could understand the reasonableness of a proposal like this if it had been made 50 years ago. Calcutta at that time was a seething swamp—the nursing ground of malarious and other fevers. But within the last 50 years the great sanitary works which have been carried out have changed the sanitary condition of Calcutta altogether. Under the Act of 1876 and the Act of 1888, the Corporation was empowered to spend 1½ lakhs every year upon drainage works. The Corporation has spent a good deal more than 1½ lakhs a year. This has been going on from 1876 to 1899. The drainage works of the town have been completed, and the drainage works of the suburbs are being pushed on with vigour. Therefore, Sir, the justification for a drastic provision like this does not exist at the present moment, whatever might have been the justification for such a provision 50 years ago. I wish to put it to my hon'ble friend whether, when the Building Commission made the recommendation upon which this section of the law is based, they had in view any unhealthy area to which they intended that this section should be applied. I am prepared to go still further and ask whether they had in their minds any unhealthy area in the acquisition of which a section like this would be useful. Sir, we have got the opinion of the Building Commission,



and I will presently read that opinion; but here in this Council, as I have said, I am not willing to trust to individuals. The opinion I value most is my own opinion, and that opinion formed after a careful consideration of facts connected with any particular issue. What are the facts, independently of the recommendation of the Building Commission, which justify a section like this? Has that Commission given us the facts? Have we got any facts at all? Is the Hon'ble Member in charge of the Bill prepared to give us the facts? Is the executive of the Corporation ready to give us the facts? Have the executive of the Corporation suggested that anything of this sort should be done? If they have not done so, what is the *raison d'être* for a section like this? It would not do, Sir, to enact a drastic provision like this merely upon the recommendation of two or three experts. Those experts are entitled to respect, but we want testimony more solid—more substantial—than their opinion, and I should like to be placed in possession of any facts which would support the position taken up by the Building Commission. I will now read the recommendation of the Commission. At page 39 of their report they say:—

'As it is important that delay should be avoided in the acquisition of unhealthy areas, power to acquire them at once should be given to the Commissioners. These powers should only be given where the areas are declared to be unhealthy on the certificate of a Magistrate, granted after hearing any objections raised by persons interested. Provision should be made for the speedy service of notices to such persons and for an early hearing of their objections.'

"Well, Sir, this is the opinion of the Building Commission. The Building Commission seemed to imagine that all that has to be done for the purpose of the acquisition of land is to shorten the process by which land is to be acquired. But, Sir, a great deal more than that is required; funds are needed for the opening out of the congested areas. A large sum of money is needed, but where is that money to come from? Something like five crores of rupees would be required at a moderate estimate for opening out all the congested areas.

"And here, with all the respect which I feel for the Government of this country, I have a complaint to make against the Government. The Building Commission recommend certain financial and certain legal measures. The financial measures ought to precede the legal measures. We ought to have the funds before we change the law for the acquisition of land. Among the financial measures are these: that a tax should be imposed on jute; that the imposition of an *octroi*-duty should be seriously considered. Well, Sir, the tax on jute has not been imposed, and no proposal to that effect has been made by Government. I am afraid that even, if that proposal were made by the Government of this Province, most probably the Government of India would like that the tax on jute should be reserved to itself. Then, Sir, with reference to the *octroi*-duties, I had the honour to give notice of a motion; but Your Honour thought it your duty—and I have no complaint to make against your decision—to rule it out of order. Therefore, Sir, it comes to this, that the financial recommendation which the Building Commission has made has not yet been given effect to. The other recommendations of a legal character depend upon these financial proposals. If we have money, of course then we can acquire the land, and if, having the money, we meet with difficulties in acquiring the land, then the recommendations of the Building Commission may be given effect to and the process shortened. But we have not got the money, and the financial recommendations have not been given effect to. It seems to me, Sir, to be something like placing the cart before the horse to give effect to the legal recommendations before devising measures for obtaining the necessary funds. Let us have the money first, and then if we find that there is any difficulty in the way of the acquisition of land, if the process is found to be dilatory and inconvenient, the law might be changed. But, Sir, we have not got the money, and yet a drastic provision like this is sought to be enacted as the law of the land. I desire to point out further that there is no such provision in any municipal law with which I am acquainted. There is no such provision in the Bombay Act, or in the Madras Act, or in the English Public Health Act.

You may ransack the municipal literature of the world, and I doubt very much if you will find any provision like this. Having regard to all these considerations, I think this provision is unnecessary, that it is drastic and inconvenient, and that no good and sufficient grounds have been made out for its introduction."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"The amendment which stands in my name is identical with that just moved by my hon'ble friend, and it is desirable that I should say a few words in support of it. I entirely agree with everything that has fallen from my hon'ble friend Babu Surendranath Banerjee, and I believe that this provision will not only prove a source of irritation, but also that it will be practically useless. I have not the smallest doubt that the very first time this provision of the law is sought to be enforced, the Magistrate will have to go through a lengthy enquiry. People will resist to the utmost any attempt made to eject them summarily from their houses. Evidence will have to be taken, and I can assure the Council that, if the decision of the Magistrate happens to be adverse to the owners, it will be challenged in appeal, and the case will be dragged to the High Court; and the very object in view, namely, to shorten the process by which land may be acquired, will be completely frustrated. A clause of this description, therefore, will not only lead to oppression, but will also promote expensive and needlessly vexatious litigation."

The Hon'ble MR. OLDHAM said:—"The Hon'ble Babu Surendranath Banerjee has quite rightly described the law on this subject and the manner in which the proposal originated. This section is for the purpose of enacting that in the case of unhealthy areas the provisions of section 17 of the Land Acquisition Act shall apply. The clause has been framed in accordance with the recommendations of the Building Commission, and the Building Commission's proposal was:—

'As it is important that delay should be avoided in the acquisition of unhealthy areas, power to acquire them at once should be given to the Commissioners. These powers should only be given where the areas are declared to be unhealthy on the certificate of a Magistrate, granted after hearing any objections raised by persons interested. Provision should be made for the speedy service of notices to such persons and for an early hearing of their objections.'

"In connection with what the Building Commission said on the subject, it is only necessary to add that this part of the report was concurred in by the two Indian members—Babu Kally Nath Mitter and Babu Nalin Behari Sircar; that is to say, Babu Nalin Behari Sircar did not mention it in his Note of Dissent, nor did Babu Kally Nath Mitter refer to it at all. My hon'ble friend, however, went on to say he doubted if any instance was present in the minds of the members of the Building Commission which could justify this provision, and he challenged the Hon'ble Member in charge of the Bill to bring forward such an instance. I do not think his hon'ble colleague the representative of the Corporation will bear him out in offering that challenge. In two areas which I could mention, according to the quarterly health reports which we receive, in the two wards represented by Entally and Kidderpore, the death-rate for the quarter is reported to be at the rate of about 50 to 60, and in one instance 70, per thousand instead of 20, or at most 25, as it should be. I would particularly remind my hon'ble friend of the moving speech made by Babu Bhupendranath Bose less than a month ago on the last occasion on which he sat on the Corporation. As it was the last occasion on which he would have the opportunity of speaking, he drew the particular attention of the Commissioners to the perfectly deplorable state of affairs which prevailed in the area added to his own Ward No. 1. He quoted figures showing a most appalling rate of mortality due to fever and other diseases, and he called for the very earliest measures of reclamation and improvement to do away with this state of affairs. As regards the Hon'ble Dr. Asutosh Mukhopadhyaya's objection, it is one which I have not considered, but the proposal was made by Mr. Justice Trevelyan and by a Commission on which lawyers sat. My hon'ble friend opposite, the learned Legal Remembrancer, will be able to give the answer to that objection."



The Hon'ble MR. BAKER said:—"I should just like to add one or two words to what has fallen from the Hon'ble Mr. Oldham, who has kindly undertaken to deal with this matter. The Hon'ble Babu Surendranath Banerjee said that the operation of this section would be a cause of hardship to the people who were dispossessed. Well, Sir, in the first place, I would point out that these are the people whose unhealthy surroundings and unhealthy modes of living are the cause of danger to the people around them. Therefore I do not think they are entitled to much consideration. He also said we give no additional compensation. I am not prepared to admit that they are entitled to additional compensation, but in clause (3) of section 17 of the Land Acquisition Act, it is stated that the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees, if any, on such land, and for any other damage sustained by them and caused by such sudden dispossession; so that, in so far as they suffer injury or damage in consequence of the suddenness of their dispossession, they will be entitled to additional compensation. Then the Hon'ble Member said that during the last 50 years great sanitary improvements have been effected in Calcutta, and that the public health is much better now than it was then, and that, therefore, there was no justification for this, as he called it, drastic provision. But I would point out that there are still patches of Calcutta which are insanitary and unhealthy. The Hon'ble Mr. Oldham has mentioned two cases in point, and it will be noticed that the section only provides that urgency shall be declared in areas which are actually found to be insanitary and unhealthy. With reference to what fell from the Hon'ble Dr. Asutosh Mukhopadhyaya, I would observe that the procedure before the Magistrate would no doubt be a slow matter; but while that procedure is going on the Collector will be able to go on with the work of taking up the land in the ordinary course, so that in no case can there be any time lost beyond what would have been lost under the regular procedure."

The Hon'ble MR. APCAR said:—"There has been a direct reference made to me, and, although I did not intend to take part in this discussion, I now feel bound to speak to this amendment. What presses upon me is this; that these proceedings depend after all on financial considerations, and if any authority outside the Corporation is to have the whole subject under their control, then it may happen that the finances of the Corporation will be placed in a difficult position if action is taken in consequence of outside interference. I do not altogether go with my hon'ble friend on my left as to the chronological order in which the proceedings are to be taken. I frankly admit the necessity of provisions being laid down to improve the sanitary conditions of Calcutta, and I am sorry that the Government have not yet undertaken any sort of reformation with reference to the opening out of these congested areas. But I hope that that may yet be done after all that has been said.

"I cannot altogether agree with the Hon'ble Mr. Oldham in what he has mentioned to the Council in regard to the two areas he spoke of. The Hon'ble Member in charge of the Bill has spoken of patches of Calcutta that are in an insanitary condition. It must be remembered that the patches which have been referred to are outside of the old boundaries of Calcutta. These areas have been under the control of other authorities than the Corporation: as a matter of fact, they have been under the control of Government itself until a late period. All that can be done has already been done by the Corporation as at present constituted, and they have not by any means been blind to their duty in improving insanitary quarters. So that I do not think any justification has really been shown for imposing this particular section upon Calcutta. Now I do not think, Sir, that the Corporation will be in the future (at least I hope not) any more wanting in their duty than they have been in the past, so that, if matters are left to take their own course, I have a confident anticipation that everything which may be required to be done will be done.

"Then my hon'ble friend referred to the speech of my industrious and able friend Babu Bhupendranath Bose, who has been one of the most useful Commissioners we have had. I think my hon'ble friend is not quite intimately acquainted with all the facts. What Babu Bhupendranath Bose complained of cannot possibly be made good under this section. The insanitary condition of what is called the canal area, to which Babu Bhupendranath Bose referred, is due

to flooding during the rains. The European citizens complain because, occasionally, for an hour or so in the rainy season, the quarters in which they carry on business are flooded. In the canal area some of the lower floors of the houses are under water for five, six, or seven days in the rainy weather. That is what they have got to suffer, and that, Sir, is, as our late Engineer told us, in consequence of the canalisation by Government when Sir Ashley Eden was Lieutenant-Governor of Bengal. Now, Sir, with reference to this particular matter the Commissioners have pressed upon Chairman after Chairman the necessity of having some scheme prepared in order to relieve these poor inhabitants who are being killed off by reason of the insanitary conditions under which they live. I know the Chairmen have given directions with regard to it, but up to this date I have not seen any scheme brought forward. So that with regard to such conditions as those to which my hon'ble friend Mr. Oldham has referred, this section, which will authorise the acquisition of land which is supposed to be insanitary, cannot have any effect whatever. We would not take up the whole canal area, and if we did so, it would still continue to be in an insanitary condition, because it is not by reason of the tenantry of the area that it is insanitary, but it is by reason of certain operations which have been undertaken by Government, and which cause great floods throughout the district. So far as that is concerned, I do not think my hon'ble friend's argument really holds good. With regard to other places, there is Ward No. 22, which my hon'ble friend has omitted to mention. It was a most insanitary area, which the Corporation improved without any compulsion from outside. These are matters, Sir, with which I am so familiar that I cannot help referring to them, and I think it is a little dangerous on the part of those who are less acquainted with them to bring forward such instances."

The Hon'ble MR. BAKER said:—"I rise to order, Sir; the only point before the Council is the question of urgency. We are not concerned with the question whether any particular area is to be taken up or not, but only whether, when it has been decided to take it up, we should apply urgency or not."

The Hon'ble MR. APCAR said:—"I am ready to bow to any ruling."

The Hon'ble THE PRESIDENT said:—"I think the Hon'ble Member was in order to give instances in reply to the Hon'ble Mr. Oldham, but whether it is necessary to give any further instances is of course another question."

The Hon'ble MR. APCAR said:—"I was going on to show, Sir, that the provision of the Bill in this connection is uncalled for; since, if there are insanitary areas, they are not to be improved in a general way by proceedings under this sub-section; and further, the Commissioners in the past have, so far as their funds have permitted, been anxious to improve insanitary areas. But, in view of Your Honour's observations, I shall not pursue the subject further. Before I leave this question, I must warn my hon'ble friend that it is dangerous to touch upon subjects unless you are very intimately acquainted with them. All through, Sir, I am entirely in support of measures which will secure sanitary improvements. But in this particular matter I think there should be powers given to those who have the control of the finances. They have got to shape their policy according to the money that they have got in hand. If that is done, I will support up to the hilt urgent measures in order to acquire land which are insanitary; but my whole objection is that the question should be left to the decision of those who have got the control of the finances, who are concerned in administering these matters, and, in a question such as is covered by the section of the Bill under consideration, not by outside authority."

The Hon'ble BABU BOIKANTA NATH SEN said:—"I venture to submit, Sir, that the acquisition of land without delay is not likely to be secured in a better way by these provisions than by those which exist under the Land Acquisition Act. The potentiality of this provision is deteriorated or weakened by the section itself. Is it to be a judicial enquiry or executive enquiry? Then there will be the usual procrastination or delay, whereas under the existing law the Chairman can at once move the Local Government; and I do not think there would be that amount of delay which will be involved if this section is incorporated in the law. The object therefore which the executive wish to secure by this section will be



frustrated by the provision which has already been laid down under the Act. I think, if the executive would carefully consider it, they would find that the existing provision is much better, and would enable them to acquire land in a quicker way than that provided for under this section."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I desire shortly to reply to the observations which have been made by the Hon'ble Member opposite. My hon'ble friend Mr. Oldham has remarked that this part of the Report of the Building Commission has been concurred in by the Indian representatives on the Commission. They do not concur in it now whatever they might have done at that time. One of the members is now distinctly opposed to this particular part of the Report and to other parts of it to which I shall call attention later on. Then, Sir, it is very apparent that my hon'ble friend the Member in charge of the Bill is in favour of granting additional compensation to persons being dispossessed of their holdings in bustees or buildings under the operation of this urgency clause, and my hon'ble friend seems to be of opinion that sub-section (3) of section 17 would cover cases of this kind. Sir, I am not a lawyer, but sub-section (3) requires that further compensation be given to the dispossessed parties in respect of arable and waste land, because the sub-section refers to arable and waste lands. Therefore, if you wish for further compensation to be given to persons in unhealthy areas which are not waste or arable land you must make sub-section (3) by special legislation applicable to this class of cases. That is the view which has occurred to me. It would be something for these poor people to get some compensation for their hurried dispossession, and that would be in accordance with the spirit of sub-section (3) of the Land Acquisition Act. Then, Sir, there was one observation made by the Hon'ble Mr. Oldham to which I desire to call attention. It was in regard to the speech made by the Hon'ble Babu Bhupendranath Bose on the last occasion on which he sat as a member of the Corporation. Babu Bhupendranath Bose, feeling that that was the last time he was to occupy a seat in the Corporation, made one of the most eloquent speeches ever heard at the meeting of the Corporation. He referred to the canal area in Entally, and in a most moving way called attention to the urgent necessity which existed for improving that area. But, Sir, what would be the remedy for the grievance he brought to notice? What would ensure the reclamation of the canal area. Not this section of the Bill. You want money. The financial consideration is the paramount consideration in the matter; the other is merely a subsidiary consideration. In this section you are anticipating a thing which ought to come later on. 'Finances first, drastic measures afterwards,' should be the motto of this Council. You have not got the money, and public opinion is alarmed. Public opinion would like to see the sinews of war provided before these drastic provisions are enforced. That is my view; and however that may be, Sir, I hope my hon'ble friend will accept his own principle that additional compensation should be given for hurried dispossession; and if he accepts it I hope he will accede to the extension of sub-section (3) to cases of this kind."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir, I regret to find that the objection to which I alluded has not been answered, probably because it has not been sufficiently appreciated. My hon'ble friend Mr. Oldham left my objection to be dealt with by the Hon'ble the Legal Remembrancer, and so it still awaits an answer. The Hon'ble Member in charge of the Bill said that, during the time the proceedings will go on before the Magistrate, the Collector will also proceed in the usual way; and, if the enquiry before the Magistrate be delayed, there will be no difficulty, as the land will be acquired in the usual way." This use of a double-edged weapon may sometimes expedite matters, but it furnishes no answer whatever to my objection that the system will lead to needlessly expensive litigation. It will be expensive not only to the people you want to dispossess, but also to the Corporation. You can take it as an unquestionable fact that every single attempt made by the Corporation to render people homeless under this section will be resisted to the utmost. The proceedings before the Magistrate will be contested to the best of the ability of the parties concerned, and after that the case will be dragged and fought out before the High Court. That was my objection, and no attempt has been made

to answer it. I take it that the greatest misery you can inflict upon a people by the introduction of new laws is an increase of ruinous litigation. I must add that what has been pointed out by my hon'ble friend Babu Surendranath Banerjee about the payment of compensation is absolutely correct. Sub-section (3) of section 17 of the Land Acquisition Act applies only to waste and arable lands and lands acquired for purposes of a railway under an unforeseen emergency. This is manifest from the language of the sub-section read along with the two preceding sub-sections. It is clear, therefore, that, although the special powers conferred by section 17 of the Land Acquisition Act may be exercised in the case of unhealthy areas under section 585 (*now* 557) of the Bill, the persons who become homeless are not entitled to claim any additional compensation for sudden dispossession as is contemplated by section 17, sub-section (3). The unfairness of this needs no comment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I earnestly appeal to the Hon'ble Member in charge of the Bill to consider this matter."

The Hon'ble MR. BAKER said:—"I am not in order in speaking, Sir, but I think I may mention that sub-section (3) applies to both the previous sub-sections, and it lays down not only that compensation shall be given for damage to standing crops and trees on arable and waste lands, but that it shall also be given for damage sustained by reason of sudden dispossession."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sub-section (3), as I read it, refers only to waste and arable lands, and lands taken up for railways under certain specified exceptional circumstances."

The Hon'ble MR. BAKER said:—"I read it as bringing in the whole of section 17."

The Hon'ble THE PRESIDENT said:—"Will the Hon'ble Legal Remembrancer give us his views upon this matter?"

The Hon'ble MR. HANDLEY said:—"I am inclined to agree with the Hon'ble Member for the University. I think it must be read to apply only to arable and waste lands, judging from the wording of the sub-section, which runs:—

'In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions here contained.'"

The Hon'ble MR. BAKER said:—"The words 'any other damage' applies to both sub-sections. It says expressly 'under either of the preceding sub-sections.'"

The Hon'ble MR. HANDLEY said:—"Sub-section (2) refers only to land taken up for railways."

The Hon'ble MR. BAKER said:—"Yes, but the operation of that is made to apply by the clause in the present Bill to all buildings on land taken up by the Corporation."

The Hon'ble MR. OLDHAM said:—"I may say that it is an absolute surprise to me to hear any doubt on the construction of this section."

The Hon'ble MR. BAKER said:—"If, Sir, there is any doubt, I am quite willing to add to this sub-section a clause to the effect that compensation should be paid for any damage sustained by persons by reason of their sudden dispossession. It certainly never occurred to me for one moment that this clause did not apply."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"As there is a difference of opinion it will be better to add the clause."

The Hon'ble THE PRESIDENT said:—"Yes, I quite agree, and I think the Secretary had better consult the Hon'ble Member in charge of the Bill as to the terms of the clause."



The motions being put, the Council divided as follows:—

<i>Ayes 6.</i>	<i>Noes 12.</i>
The Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur.	The Hon'ble Mr. Buckley.
The Hon'ble Babu Jatra Mohan Sen.	The Hon'ble Mr. Buckland.
The Hon'ble Babu Boikanta Nath Sen.	The Hon'ble Mr. Handley.
The Hon'ble Babu Surendranath Banerjee.	The Hon'ble Rai Durga Gati Banerjee, Bahadur.
The Hon'ble Mr. Apear.	The Hon'ble Mr. Mackenzie.
The Hon'ble Dr. Asutosh Mukhopadhyaya.	The Hon'ble Mr. Spink.
	The Hon'ble Sahibzada Mahomed Bakhytar Shah.
	The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.
	The Hon'ble Mr. Oldham.
	The Hon'ble Mr. Baker.
	The Hon'ble Mr. Bolton.
	The Hon'ble Mr. Slack.

So the amendments were lost.

The Hon'ble BABU SURENDRANATH BANERJEE also moved that the following proviso be added to clause (b) of section 585 (*now 557*):

"Provided that no action shall be taken under this clause without the sanction of the Corporation."

He said:—"If my hon'ble friend has any objection to the word 'Corporation'—and I am afraid he has—I will modify that and put in the words 'General Committee' instead of 'Corporation' to suit him if he can see his way to accept it. It strikes me that it will be as well to provide an additional safeguard by obtaining the sanction of the General Committee. You bundle a man out of his house with all his belongings—his *lares* and *penates*—and I think in a matter of that kind the discretion of the individual should be controlled by the wider discretion of a competent body like the General Committee."

The Hon'ble MR. BAKER said:—"My hon'ble friend has overlooked the fact that the discretion is not in the hands of the Chairman, nor in the hands of the General Committee. It is with the Magistrate, and all that the Chairman has to do is to take the initial proceedings and put the application before the Magistrate. Surely it is not necessary to take anybody's sanction to do that."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I think I have been misunderstood. I am well aware that it is the initiation of these which is in the hands of the Chairman, but what I contend for is that no action should be taken without the sanction of the General Committee. The General Committee meet once a week, and then the sanction can be taken. No time will be lost. I think I have been somewhat misunderstood, and probably my hon'ble friend will now see his way to withdraw his objection."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion, standing in his name, that in section 585 (*now 557*), clause (b), line 4, before the word "Magistrate" be inserted "Presidency."

The Hon'ble BABU SURENDRANATH BANERJEE moved that clause (d) of section 585 (*now 557*) be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that clause (d) of section 585 (*now 557*) be omitted.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that clause (e) of section 585 (*now 557*) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"If Your Honour has no objection, the Hon'ble Dr. Asutosh Mukhopadhyaya and I will move these two amendments. With Your Honour's permission I will begin. These two amendments have reference to section 23 of the Land Acquisition Act. That section is as follows:—

'23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

*first*, the market value of the land at the date of the publication of the declaration relating thereto under section 6;

*secondly*, the damage sustained by the person interested by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

*thirdly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

*fourthly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immovable, in any other manner, or his earnings;

*fifthly*, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

*sixthly*, the damage (if any) *bond fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

'(2) In addition to the market value of the land as above provided, the Court shall in every case award a sum of 15 *per centum* on such market value in consideration of the compulsory nature of the acquisition.'

"I read these various clauses in order to point out how scrupulously solicitous the law is in a matter of this kind in safeguarding private rights. This section deals with encroachments on private rights in the name of public rights. The spirit of the Legislature is that no harm whatever is to be done to private rights in the name of public rights. In this connection I may read to you a decision of Lord Truro's which is given in Mr. Beverley's edition of the Land Acquisition Act. Lord Truro says:—

'These acts are to be deliberately expounded in favour of the public and strictly expounded as against the Government or the Company taking the land.'

"Therefore, Sir, the interpretation you are bound to give to the Land Acquisition provisions is to be liberal so far as the individual is concerned, but strict so far as the public are concerned. But, Sir, I have no hesitation in saying that clauses (c) and (d) of section 585 (*now 557*) represent a sort of flank movement by which the present law is to be superseded. Clause (c) of the section says:—

'(c) The market-value of the land or building shall be deemed, for the purposes of clause *first* of sub-section (1) of section 23 of the said Land Acquisition Act, to be the market value according to the disposition of the land or building at the date of the publication of the declaration relating thereto under section 6 of the said Land Acquisition Act.'

"Then, Sir, supplementary to this we have in clause (d) the market value settled and fixed as being twenty-five times the annual value of the property. Well, Sir, clause (c) is in direct contravention of an important ruling on the subject. That ruling was given in the case of *Prem Chand Barral*, and was laid down by Sir Richard Garth, Chief Justice of Bengal, and by so eminent a Judge as Mr. Justice Macpherson. That ruling was as follows:—

'The fairest and most favourable principle of compensation to the owners was to enquire what is the market value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it.'

"The Chief Justice and Mr. Justice Macpherson held in that case that to capitalise the present rental of the property at so many years' purchase was not always a fair way of arriving at the market value.



"Then, Sir, this is not a chance ruling, but the principle embodied in it has again and again been confirmed in a number of cases. Therefore, Sir, it comes to this: that we have got a ruling, concurred in by the highest Court in this land and confirmed by various other Courts; associated with it are some of the most illustrious names in the annals of British jurisprudence; and that ruling it is now proposed deliberately to set aside. And on what ground? I am only surprised that the Judge of the High Court who was President of the Building Commission should have lent his name to a proceeding of this kind. Because in one or two cases the valuations were exorbitant—they certainly were exorbitant—is that any reason why you should enact a law the effect of which would be to bring about a general undervaluation of property in this way? The best of laws, enacted with the most beneficent intentions, often miscarry. You cannot point to a single human institution which is not liable to be tainted with abuse in its practical application. Because in the case of *Premchand Bural* there was gross overvaluation, is that a reason why the Bengal Council should enact a law which will grossly undervalue the property of people in Calcutta? I hope Your Honour will set your face against legislation of this kind. It is opposed to the decisions and opinions given by some of the highest authorities to be found in the history of English law, and I trust Your Honour's Council will set its face against a piece of legislation of this kind. What is the justification for this legislation? The justification is the opinion given by the Building Commission, and I think here my hon'ble friend will not be able to say that there was absolute unanimity. I think my hon'ble friend will admit that so far as this opinion is concerned the two gentlemen who represented the landed property of Calcutta strenuously opposed this provision. I will read an extract from page 40 of the Building Commission's Report:—

"The extravagant prices which the Corporation has been made to pay for property acquired by it have arisen from the interpretation put by the Courts upon the decision of the High Court of Calcutta in the case of *Premchand Bural and another v. The Collector of Calcutta*, I. L. R. 2 Cal. 103. The word "market-value" occasionally leads to difficulties. It is the price which a willing vendor might be expected to obtain in the open market from a willing purchaser. In the case to which we have referred, it was held that the fairest and most favourable principle of compensation to the owners was to inquire "what is the market-value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it." This expression of opinion has induced the Courts to assess lands at a price in excess of what owners would ordinarily have obtained for them in the market. We think it not unfair that for the purposes of land acquisition land should be valued according to its disposition at the time the declaration is made. In the opinion of the majority of us, if it be shown that, before the declaration is made, the owner had taken active steps towards a more favourable disposition of the land, and had spent money for that purpose, further compensation might be given to him, such compensation being based on his actual loss. The value which ought to be paid is the value of the land to the owner, and nothing more. It should, however, also be provided that, where the market-value is specially high in consequence of the property being put to a use which is unlawful or is contrary to public policy, *e.g.*, public gaming, the special circumstance shall be disregarded, and compensation shall be calculated on the sum which would be the market-value if the property were put to ordinary uses.

"In the opinion of the majority of us it should be provided that twenty-five times the annual value at which the property is assessed for the purpose of municipal taxation shall be presumed to be the market-value until the contrary is shown. This provision, however, should not take effect until the particular land has been re-assessed after the passing of the amending Act. Power should be given to re-assess for this purpose."

"Well, Sir, I have not the smallest hesitation in saying that in some cases the market value if assessed according to this principle would mean loss to the Corporation, and in some cases—perhaps in many cases—it would mean serious loss to the parties concerned. Now take the case of Ballygunge. The day before yesterday, after the meeting of the Council was over, I went over to Ballygunge, and saw a friend of mine who has extensive landed property there. He is a lawyer of some eminence. I consulted him about these provisions, and he told me that there were properties in Ballygunge—gardens and so forth—which yielded only a nominal rent. He mentioned to me a garden of 5 bighas let at a rent of about Rs. 5 per month, or Rs. 60 for the year. The valuation would be 25 times 60; or Rs. 1,500. Now would that be a fair valuation for 5 bighas of land—would it not be a gross undervaluation? That is as

regards gardens. As regards vacant houses there would be an undervaluation—and an undervaluation which would involve the grossest injustice to the parties concerned. I am inclined to make the same remark with regard to bustees. The value of bustees depends not so much upon the rent they yield as upon their eligibility for building sites. The people pay a great deal in excess of the annual income derived from bustees in order that they may use those bustees for building purposes. Therefore, by fixing the market value at twenty-five times the annual rental you do a positive injustice to a large number of people by undervaluing their properties, and on the other hand you will be putting the Corporation to serious loss. Therefore, Sir, taking into consideration all these circumstances, *viz.*, the gross injustice which a revision like this would entail in a large class of cases; the inequitableness of such a provision; the fact that this section of the Bill is opposed to the traditions of British jurisprudence and to the interpretation put upon the law by Judges both in England and this country; the fact that this section has created the greatest possible alarm based upon good grounds;—taking all these facts into consideration, I hope and trust that the existing law will be allowed to remain. No justification has been made out for any modification of the law. There might have been one or two cases in which there might have been undervaluations, but that is no reason why the law should be changed.”

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—“Sir, the two amendments which stand against my name are practically identical with those moved by the Hon'ble Babu Surendranath Banerjee, and I think it will be convenient if I speak to them now. My hon'ble friend has, to some extent, anticipated me in the observations I had intended to offer, and I have no desire to weaken their effect by mere repetition. At the same time I do not wish to conceal the fact that when I first read section 585 (*now* 587) it seemed to me to be the weakest section in the whole Bill; I was, therefore, not a little surprised to find that the recommendations embodied in it were taken from the report of the Building Commission which was presided over by an eminent Judge of the High Court, and I am still consoling myself with the hope that the learned Judge is not really responsible for them, and that he was not one of the majority who signed the report which has just been read by my hon'ble friend. With all deference to the judgment of the majority of the Commission, they seem to me to be very weak and very halting recommendations. Let me read one statement; it is as follows:—

“The extravagant prices which the Corporation has been made to pay for property acquired by it have arisen from the interpretation put by the Courts upon the decision of the High Court of Calcutta in the case of *Premchand Bural v. Collector of Calcutta* (I. L. R. 2 Cal. 103). The words “market value” occasionally lead to difficulties. In the case to which we have referred, it was held that the fairest and most favourable principle of compensation to the owners was to enquire “what is the market value of the property, not according to its present disposition, but laid out in the most lucrative and advantageous way in which the owners could dispose of it.” This *expression of opinion* has induced the Courts to assess lands at a price in excess of what owners would ordinarily have obtained for them in the market. We think it *not unfair* that for the purposes of land acquisition land should be valued according to its disposition at the time the declaration is made. *In the opinion of the majority of us*, if it be shown that, before the declaration is made, the owner had taken active steps towards a more favourable disposition of the land, and had spent money for that purpose, further compensation might be given to him, such compensation being based on his actual loss.”

“When I read this, the first question I am tempted to ask is, have the gentlemen who sign this report any notion that this so-called expression of opinion is not an *obiter dictum*, that the same view has commended itself to the Judicial Committee, that this is the law administered by all the High Courts throughout India, and that in an appeal from the Madras High Court the Privy Council have laid it down as the most equitable and fair view to be taken in these Land Acquisition cases. (L. R. 20 I. A. 80.) But the report is careful to add that only a majority of the Commission is responsible for this recommendation, and I still console myself with the hope that the learned Judge who presided over the deliberations of that body was in the minority. My hon'ble friend has pointed out that the effect of this section will be to introduce a provision which will nullify what has been the recognised law since 1876, for that was the time when the



decision by Sir Richard Garth and Mr. Justice Macpherson was pronounced. But let us not forget that, if this introduces a sweeping change, its operation will also be extremely anomalous; for, remember, it will not nullify the law outside Calcutta; it will not even nullify the law entirely in Calcutta; it will only nullify the law in Calcutta when a property is to be taken up by the Corporation. Suppose the East Indian Railway or the Eastern Bengal State Railway, or the Bengal-Nagpur Railway, or the Calcutta Port Trust, or the Government of Bengal want to acquire land for public purposes—these provisions will not be applicable; the law laid down by Sir Richard Garth will still be the law. Now is that a reasonable state of affairs? I affirm, without hesitation, that, if these changes are to be introduced, the most prudent course to follow will be to get the Imperial Legislative Council to amend the Land Acquisition Act.

“But, apart from these anomalies, let us examine the matter critically for a moment and see what it is that is intended to be done. Clause (b) provides that the market value of the land or building is to be taken according to the disposition of the land or of the building on the day of the publication of the declaration relating thereto under section 6 of the Land Acquisition Act. Let us illustrate the position by a concrete case. I have five bighas of land, four of which are let out and one bigha is lying waste. The Corporation of Calcutta is pleased to take up that plot of land. Am I to be told that because this one bigha is lying waste they are to pay me nothing for it? That was precisely the contention of the Government of Madras in the case I have just referred to. The Government of Madras wanted to take up a hill side on which there were some ancient monuments of considerable historical and antiquarian interest. The question arose how was the hill side to be valued? There were no data for ascertaining the market value, for, admittedly, the hill or anything like it had never been sold. The only way that ingenuity could devise was to base the calculation on the actual profit derived from the hill side. It was found that as a matter of fact a portion of the hill side was let out, and the rental derivable from that portion was Rs. 120. The contention of the Madras Government was that they were entitled to take up the entire hill side upon payment of a sum which represented the capitalised value of this annual rental of Rs. 120. That contention of the Madras Government found no favour with the District Judge, who proceeded upon the basis of the possible rental for the whole of the hill-side and not upon the basis of the actual rental received for the part let out to quarrymen. This view of the District Judge was approved by the Privy Council, and the method was described to be the best, if not the only one, for getting at the market value of the ownership. I must confess, Sir, that I have not yet heard any reason, good, bad or indifferent, why we should change a system which not only accords with common-sense, but is also supported by an authority of so high a character. Let us now take another illustration. I have a plot of bustee land which is let out to tenants from year to year. If it continues to be used as a bustee, it will bring me in perhaps Rs. 2 per cottah. If it is used as a building site it will be sold for Rs. 500 a cottah. Am I to be told that the Corporation are entitled to take up this land by paying me the capitalised value of a rental of Rs. 2 per cottah? These concrete cases, more than any abstract discussions, serve to bring out forcibly the absurdity of the proposed system, and further illustrate the danger of legislating without due advertence to the mischievous consequences which may result in a variety of actual instances. I entertain no doubt as to what would be the inevitable fate of propositions like these if they were attempted to be incorporated into the statute book in any other legislative assembly.

“I now purpose to discuss the provisions of clause (d), which provides as follows:—

‘The market value of the land or building shall, until the contrary is shown, be presumed, for the purposes of the said clause *first* of sub-section (1) of section 23, to be twenty-five times the annual value of the property, as entered in the assessment book prescribed by this Act.’

“I can well anticipate that my hon’ble friends to the right will say that this is not a matter of vital importance, as it does not purport to embody any hard-and-fast rule of law, but simply introduces a rebuttable presumption. That looks very fair at first sight, but it is, or at any rate ought to be, well

known that it is one of the elementary principles of jurisprudence that you ought not to introduce into the statute book a presumption which is untrue in the majority of instances. I hope you will not be surprised if I undertake to prove to you in the course of a few minutes, if you will bear with me so long, that this presumption really bears that character.

"Now let us turn for a moment to section 148A (*now* 150), which defines the principle upon which annual value is calculated. We had an animated debate upon that section, and we may, all of us, be presumed to be familiar with its provisions. It will be remembered that it deals with the assessment of all classes of buildings. Clause (a) deals with buildings erected for letting purposes; clause (b) deals with buildings not erected for letting purposes and not ordinarily let. Take clause (b) first. Suppose the Corporation wishes to take up a building erected last year for Rs. 10,000 and which comes under clause (b). It has been assessed by the Corporation on the estimated present cost of erection, 5 *per cent.* upon which is Rs. 500; that is the annual value entered in the municipal assessment book when the Corporation proposes to acquire it under this section. The Corporation has to pay twenty-five times Rs. 500 or Rs. 12,500. Now, in the name of common-sense, I ask, why this presumption is to be introduced into the law so that the Corporation is forced to pay more than it would otherwise have to pay? In every single case under clause (b) this presumption will operate to the disadvantage of the Corporation. I, therefore, affirm without hesitation that you ought not to introduce into the law a presumption which will be untrue in all the cases covered by sub-section (b) of section 148A (*now* 150).

"Let us now turn to clause (a), which deals with the case of buildings erected for letting purposes: in such a case you will remember that it is not the actual rental which is the basis of the valuation, but it is the rental paid by the hypothetical tenant to whom it is imagined to be let from year to year. Now a building which is fifty years old and a building which was erected yesterday may be let probably for about the same sum to tenants from year to year. If I rent a house for a year, whether the house is fifty years old or whether it was built yesterday, is just the same to me, provided it is in a good state of repair. The monthly rental may be the same for a house built yesterday and a house built fifty years ago, but the market value of the houses would be widely different. Old houses would probably require substantial repairs every two or three years, and, at no distant date, may have to be entirely taken down and rebuilt; therefore, no one will pay the same amount for an old house as for a house built yesterday. Now, is it soberly and seriously intended that the same value should be paid by the Corporation in both cases? My hon'ble friends will say that the section does not say so; it embodies only a rebuttable presumption. I know what a presumption means in the hands of Judges and how imperceptibly it tends to crystallise into a rigid, inflexible rule of law. The litigant who is called upon to negative it, indeed, finds himself in an unfortunate position. I ask, again, why do you say that it is absolutely necessary to place a presumption upon the statute book which will be proved to be untrue in the majority of cases? It has not been proved, it has not even been alleged; that any necessity for such a provision has been felt. The Hon'ble the Legal Remembrancer possesses, I believe, the widest experience in Land Acquisition cases, and I feel sure that he will bear me out when I say that he has never had the smallest difficulty in determining the market value of a building in the hundreds of cases which have come before him under the law as it stands at present. I am certain, Sir, that this presumption if introduced into the law will be a fruitful source of mischievous litigation, and will needlessly involve the Corporation in a ruinous and lamentable waste of their funds."

The Hon'ble Mr. OLDHAM said:—"Owing to the very unexpected turn the argument has taken, my reply to this amendment must be quite distinct in regard to clause (c) and clause (d). I will first premise the observations I am about to make by saying that no one can complain that the maxim quoted by the Hon'ble Babu Surendranath Banerjee from Lord Truro has not been very fully observed by the Courts in this country, because the scale of compensation which has been allowed has certainly not erred on the side of stinginess. The other day the Hon'ble Babu Surendranath Banerjee told us that he was a citizen first and a



member of the Corporation afterwards. In this particular instance he has shown himself to be a member of the Corporation first and a citizen afterwards; for it is the citizens who will have to pay. This section is, I may frankly admit, a deliberate attempt to change the law. Whether, as the Hon'ble Dr. Asutosh Mukhopadhyaya says, the law will only be changed for the Corporation, and that the Port Trust, the East Indian Railway, the Eastern Bengal State Railway and the other Railways will continue to acquire land under the present law, does not, as I understand the matter, affect our deliberations. Those bodies must look out for themselves. If the law is changed for the Corporation, the Corporation will be so much the gainers. Perhaps if I read out in a tone of approval the extract from the Building Commission's Report which my hon'ble friend Babu Surendranath Banerjee has read out in such a denunciatory tone, it may have a somewhat different meaning to the Council. My hon'ble friend wanted to infer that this opinion was not concurred in by the Indian members of the Commission because it was expressly said to be the opinion of the majority. Well, all I can say in that connection is that in his elaborate Note of Dissent Babu Nalin Behari Sircar does not once refer to the subject, and I do not think the inference which my hon'ble friend has drawn can follow, because I find that as regards section E the only dissentient member was the Hon'ble Mr. Glass."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Babu Nalin Behari Sircar himself told me that he was opposed to it."

The Hon'ble MR. OLDHAM said:—"Yes, but I am speaking now with regard to the inference drawn, so that I am not sure that the dissentient might not have been Mr. Risley himself. However that may be, what the Commission said was this:—

'The extravagant prices which the Corporation has been made to pay for property acquired by it have arisen from the interpretation put by the Courts upon the decision of the High Court of Calcutta in the case of *Premchand Bural* and another *v. The Collector of Calcutta*, I. L. R. 2 Cal. 103.'

"My hon'ble friend has himself admitted that the compensation awarded in *Premchand Bural's* case was outrageously excessive. It is solely with the object of saving the citizens from such outrageous excesses that this provision is proposed.

"As regards the case of Ballygunge cited by my hon'ble friend Babu Surendranath Banerjee, I do not understand that the law will be interpreted as he surmises it would be. But after all the owners of land in Ballygunge cannot demand that the citizens of Calcutta should have to pay for their land the utmost possible prospective value which it might some day possibly be worth. It must be taken at a reasonable value; it must be taken at its immediate and probable value in the market. The market value still remains the standard. I am not prepared to affirm, Sir, that I can incontrovertibly defend the somewhat stringent words with which this clause ends after the very strong case made out against them by the Hon'ble Member for the University, although I am not wholly convinced by his arguments. Take the case of the five bighas, where one in the middle was waste and four let to tenants. I think that the owner would be able to show his intention with regard to that middle piece of land, and that the value would have to be assessed according to his reasonable and manifest intentions. However, as I have said, I am not an out-and-out advocate for the concluding words of this clause.

"As regards clause (d), Sir, which presupposes the presumption of twenty-five times the annual value, I am in agreement with my hon'ble friend. The proposals of the Building Commission on that subject were that twenty-five times the annual value should be taken as perhaps the best rough-and-ready means for arriving at an assessment. The Hon'ble Mr. Glass thought that twenty-five times the annual value was excessive, while Babu Kally Nath Mitter thought twenty-five times would be too low. I remember the Hon'ble Mr. Turner said in Select Committee that in his experience twenty times the annual value would be the proper amount, and the answer given to that was that he was probably thinking of joint holdings and of a house standing on land as well as the value of the land. We agreed as a sort of compromise to have twenty-five

times the annual value, thinking we were meeting the wishes of our colleagues, the Indian members. In the course of my experience twenty-five times has never been exceeded in any land acquisition proceedings. If anything over twenty-five times came before the land acquisition authorities, they would immediately ask for an explanation. I think that perhaps twenty times would be a fair substitution as suggested by the Hon'ble Mr. Turner. As regards the rule, the Hon'ble Member for the University has already set us an example in his amendment the other day. I refer to his amendment to section 347A (*now* 357). It was intended to provide how an annuity payable by the holder of land belonging to a Corporation was to be capitalised, and the Bill provided for its being capitalised according to its actual value. My hon'ble friend suggested as a rough-and-ready working rule 25 years' purchase. The Hon'ble Member in charge of the Bill conferred with me on the subject. We thought those were rather favourable terms, and, though probably a little below the actual value, we thought it desirable to accept them. The forming of a working basis by legislating with a presumption of this sort is very desirable. In this connection I would like to ask my friend the Hon'ble Babu Surendranath Banerjee's attention to the Land Acquisition Act itself. The provisions under which the officer, regarding whom he expressed such genuine panic on Saturday, can act, are contained in section 11, and section 11 only obliges him to award the compensation which in his opinion should be allowed. It is section 23 which lays down more precise conditions which are to guide the Courts and to limit the Court's judgment in the matter. The working plan as it has been in practice is very much this. The Land Acquisition Deputy Collector works in constant dread of the Civil Courts. If a reference has to be made to the Civil Court, and if the Civil Court's award is different to what he proposed, that result is a reflection on his character and discretion; so that he has constantly to ask himself what the Civil Court will do in such and such a case. So that if twenty times—or whatever the figure which the Council may ultimately agree to adopt—is inserted in section 585 (*now* 557) of the Bill which does not directly affect or govern the proceedings of the Land Acquisition Deputy Collector, he will constantly have to bear it in mind, because he has constantly to ask himself what the Civil Court will do. He will know that the Civil Court will have this presumption before it, and he will have a fair starting point, and it may be assumed that twenty times will be almost invariably taken as his basis. Whether that is too high a basis is a point for the members of the Corporation to consider and discuss."

The Hon'ble MR. HANDLEY said:—"I should like to say a few words, as the Hon'ble Member for the University has appealed to me. I can certainly support what my friend has said on the point that the Civil Courts have no difficulty in ascertaining the market value of land. The only point is that it takes some time and a great deal of expense both in the Civil Court, and subsequent to appealing. As I understand this section, it is intended to try and do away with all that delay and expense of litigation by furnishing a rough and ready presumption of 25 years' purchase, and, more over, the Hon'ble Member must have seen that it says 'until the contrary is shown.' So that it still leaves it open to the Civil Court to determine what may be the actual market value of the land. In the proviso there is a safeguarding of the interests of the occupier or owner when it says:—

'Provided that this presumption shall not be made in respect of any land or building until a re-assessment has been made after the commencement of this Act, for the district in which such land or building is situated.'

"So that the intention is to give the best value of the land at that particular moment, but as regards the first clause (c), there is certainly a good deal to be said on both sides. The Hon'ble Mr. Oldham has told us that the executive rather dread the decision of the Civil Court. I am not sure that it is so. On the other hand, the public whose lands are taken may not be thoroughly satisfied with the result, and, whatever that result may be, either party has its remedy. If the Collector thinks that the Civil Court has given too much, he has his remedy of appeal just the same as the claimant has if he considers the Civil Court has given him too low a value. So that, if the Civil Court



goes wrong, either party has a perfect right of appealing to the High Court; but as regards this particular wording, to which the Hon'ble Member has taken such exception, the Hon'ble Mr. Oldham said that this was specially introduced to meet the difficulty in *Premchand Bural's* case. In that case it was said that to capitalise the present rental of the property at so many years' purchase was not always a fair way of arriving at the market value. Nor do I think that in practice you will meet with much difficulty. The cases to which my friends have referred, not only *Premchand Bural's* case but the *Harrison Road* case and the case of *Monindro Nath Chatterjee*, must be well-known to many, and also the case that occurred the other day, the extension of the General Hospital. In that case there was a filthy bustee occupied by sweepers and cowherds with their buffaloes, and when this bustee was removed and the case came into Court, the first witness that stepped into the box was an Engineer, and he produced a beautiful plan on paper with most beautiful residential houses for Europeans which he said might be let at Rs. 300 or Rs. 325 a month, and on this basis they advanced a most enormous claim to this land. At that time this ruling would apply to them, and I may say I myself decided that case, and this principle the Hon'ble Member for the University says will be brought in into the system. I am glad it will, because I do not quite follow the rule in *Premchand Bural's* case, so that he will have an opportunity of seeing that question soon decided. In *Premchand Bural's* case, as well as I remember, just as in the *Harrison Road* case and in *Chatterjee's* case, there were some active steps taken, as the Building Commission says, to improve the property. In *Aghore Nath Chatterjee's* case, the parties laid the foundations and were going to build a huge lodging-house. It was on that basis that such a very large award was given by the District Judge. In this case of the Hospital extension nothing whatever was done. No active steps had been taken; nothing was shown that such an idea had entered the mind of the owner to build such residences on that land; and, if you do not draw a line somewhere, you might take up a bustee and the parties might come forward with beautifully drawn plans and say they were going to start a jute mill and ask for compensation upon the scale of possible profits on the jute mill with so many looms. Where are you to draw a line? This, I understand, was the idea that was in the mind of the Building Commission, that if an owner really had shown a disposition by taking active steps to improve his property, then that would be taken into consideration in awarding compensation. But if he had done nothing whatever than claim what we call a fancy price, how are you to estimate such a disposition as that when he comes forward with a plan showing he is going to start a jute mill or a cotton mill or residential houses or even the Bengal Club there? Any proposition of law might be put forward in the Courts, and if they were to take *Premchand Bural's* case in its widest meaning, the Court might be bound to give compensation on that scale. Therefore, I understand, this limitation is particularly against that: 'the disposition at the time it is purchased,' that is, such purpose to which it might reasonably be put or to which the owner had such intention of putting it: not a fancy idea that might arise when the land was taken up by Government to enhance its price and to put a fictitious price upon the land by getting up some scheme which never had any existence before except perhaps on paper."

The Hon'ble MR. BAKER said:—"When the Hon'ble Members who moved these amendments were dealing with clause (c) they referred to the inadequate amount of compensation that would be paid on account of gardens and waste or unoccupied land. The Hon'ble Babu Surendranath Banerjee referred to the case of a piece of garden land in Ballygunge, which he said actually brought in Rs. 5 a month or Rs. 60 a year, and he said that, if clause (c) was allowed to stand, the owner would only get compensation on that basis. The Hon'ble Member for the University referred to a case which occurred in Madras about some hill which was absolutely waste, and he wished to know whether Government would be entitled to take it up practically for nothing, because it brought in nothing to the owner. Now, Sir, the answer in both those cases is that they would be governed not by clause (c) but by clause (d). In the case of the

garden at Ballygunge, the Hon'ble Member who referred to it did not tell us what the annual value was as entered in the municipal assessment register. Now, under clause (d), the presumption is that the compensation to be paid is twenty-five times, not the actual letting value, not the actual return for the moment, but twenty-five times the annual value, as ascertained by the Municipal Assessment Department and entered in the assessment register. This is an entirely different thing. The actual annual value and the actual letting value of houses may be an entirely different thing from the annual valuation as determined by the Municipal Assessment Department."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"As a rule the actual letting value is the annual value."

The Hon'ble MR. BAKER said:—"The Hon'ble Babu Surendranath Banerjee is right. As a rule the actual letting value is the same as the rent paid by the hypothetical tenant, but in exceptional cases that is not so, and the cases that he has mentioned are precisely cases of that exceptional nature. As regards waste land unoccupied in the heart of the city, no one will for one moment pretend that although they are bringing in nothing to their owners at present, they are, therefore, worthless, and they are certainly not entered at *nil* in the municipal assessment register. The Hon'ble Dr. Asutosh Mukhopadhyaya referred to the case of two houses, a new house and an old house of 50 years old. Both of these may be letting for the same rent at the same moment; they may both let for Rs. 100 a month. He asked the Council whether it would be right that the same compensation should be paid for the old house as for the new one? That is exactly a case of the kind which was covered by the decision the Council came to under section 148A (*now* 151). The annual valuation of the old house will be less than the annual value of the new house, and, therefore, the amount of compensation payable under clause (d) of this section will be greater in the one case than in the other.

"Then, Sir, the Hon'ble Member for the University pointed out that this 25 years' purchase presumption would operate unfavourably towards the Corporation in some cases, and he instanced the case of residential houses which was dealt with so thoroughly the other day. The Hon'ble Member is perfectly right. It is quite true that in those cases the number of years' purchase ought to be 20 years and not 25 years. It will be within the recollection of the Council that, when we were dealing with the determination of the annual value of residential houses, I produced letters which had been sent to me by Messrs. Mackintosh Burn and Company and Messrs. Mackenzie, Lyall and Company, and I showed to the Council that the annual return on house property in Calcutta was somewhere about 5 *per cent.* or a little more; and the Council accepted that view, and decided that the annual valuation of residential houses should be taken to be 5 *per cent.* on their estimated present cost of construction. Now to invert that decision, or to express it in a different way, the result of that is that the capitalised value of the annual valuation is 20 years' purchase; that is to say, it is twenty times the annual valuation as entered in the assessment register; and, Sir, I think the Council would be perfectly justified in following Mr. Oldham's advice and substituting 20 years for 25 years in clause (d). I imagine that the Hon'ble Member who moved this amendment would probably oppose any alteration of that kind. Babu Kally Nath Mitter said before the Building Commission that 30 years should be given. Why? He has given no reasons. The only reason why we should be justified in giving 25 years' purchase or taking that as the presumption is in order to soften the severity of the law of land acquisition. We know that in Calcutta there is a strong prejudice against giving up and being deprived of one's ancestral house, and it is a feeling which the Legislature will do well to take into consideration. I think that we ought not to reduce the number of years' purchase below 25, not because it would not be absolutely just, but because it would be felt as a hardship; but to give anything more than 25 years would be, I think, unfair to the rate-payers and unfair to the Corporation."

The Hon'ble MR. BOLTON said:—"The ruling in the case of *Premchand Bural* was passed under Act X of 1870, which provided for taking the market



value as it stood at the time of awarding compensation for the land. There is necessarily always an interval between the declaration that the land is to be acquired and the time of the award, the interval often extending for many months. During that interval owners of properties declared for acquisition had the opportunity of making various fictitious arrangements for the purpose of establishing a claim to higher compensation at the time of the award. The High Court had thus before them the fact that the law allowed the owners to make dispositions of their property before the award, when they delivered their judgment in *Premchand Bural's* case, and it is presumably for this reason that they ruled that such dispositions should be taken into account. The law was, however, amended by Act I of 1894, and in the first clause of section 23 it is provided that the market value shall be that value at the time of the declaration for acquisition. Owners can, therefore, no longer make dispositions of their property after that date, and the High Court's ruling has apparently ceased to apply. A fresh ruling under the new law should be awaited. The Building Commission might, indeed, have dispensed with recommending the provision under discussion, because section 23 of Act I of 1894 now to a great extent meets what they propose; that is, the market value is to be the value at the time of the declaration, and not at the time of the award. They apparently, however, desired to emphasize the fact that any disposition of the property subsequent to the declaration should not be taken into account in awarding compensation, and, as serving that purpose, I think that the present provision should remain in the Bill."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I quite sympathise with those remarks that the public ought not to pay for any malpractices on the part of a person with a view to raise artificially the value of the property. Therefore, the compensation ought to be paid upon the value of the property at the time of the declaration. If that is the intention of the section, why is it not specified?"

The Hon'ble MR. BOLTON said:—"That is stated in the Land Acquisition law itself."

The Hon'ble MR. BAKER said:—"It is expressly stated in clause (c) of section 585 (now 557) of the Bill."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"What would 'disposition' mean?"

The Hon'ble MR. BOLTON said:—"The Building Commission apparently took the term from the ruling in *Premchand Bural's* case for the express purpose of protecting the Corporation from awards based on that ruling."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Is it not covered by section 23?"

The Hon'ble MR. BAKER said:—"The words 'disposition of the land or building' mean the manner in which the land or building is being used. It is not a question of the date. The date is settled."

The Hon'ble MR. BOLTON said:—"Another provision of the present Act may be mentioned in support of the Building Commission's recommendation. It will be seen that section 24 of the present Act specially provides that the Court shall not take into consideration in awarding compensation any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired, that is to say, that the Court is not to take into account the possible gain which the owner of the property might have obtained at some future time."

The Hon'ble BABU JATRA MOHAN SEN said:—"I should like to add one or two illustrations to those that have been given by the Hon'ble Dr. Asutosh Mukhopadhyaya and the Hon'ble Babu Surendranath Banerjee. Take the case of a tank partly silted up near a road—and we have a very large number of

such tanks in the added area. If we take in valuing this land the present disposition of the property, it would be that that property is a nuisance. The only disposition that it has is a periodical notice calling upon the owner to cleanse it; and we all know that if this property was filled up and sold in the open market it would fetch the same price as any other building site; but if we are to apply the present clause (c) to that property, I think the Corporation would not pay anything to the owner, but on the contrary get something from him, because he has to incur periodically some loss and, perhaps, also to undergo prosecution under notices from the Municipality.

"Then, again, take the case of a building with a tank attached to it. In the added area we have many such tanks attached to buildings, which are, in fact, a nuisance to the buildings themselves. If the building is let to a tenant now, it will not fetch the same rent which it otherwise would if there was no tank attached to it. The man is not able to spend money to fill the tank, but if that tank was filled probably he would get a higher rent. Now if he was willing to sell the tank and the house to a willing purchaser, the latter would pay not only for the building but also for the tank, and if he was able to build a new building altogether on a new model, he would pay a very much higher price; but if the Corporation is going to acquire it, the Corporation will only pay, say, twenty times or twenty-five times the rent that he is receiving now. That will be, I submit, an injustice to the owner of the property, because if he sells it to a willing purchaser in the market, he gets much more than is provided for in this section.

"Then, again, if we take the illustration which was given by the Hon'ble Dr. Asutosh Mukhopadhyaya, the illustration of five bighas, four bighas of which are occupied by tenants and one is waste. I think if the property was sold in the open market the one bigha which is waste would fetch a higher price than the four bighas occupied by tenants, for their trouble would be to turn out those tenants. But under the present sub-sections (c) and (d) probably he would get a very low price, because the present disposition of the property yields nothing.

"Then a reference was made to the report of the Building Commission, that if an owner took active steps to improve the property, probably just before the declaration, he would be entitled to a much higher price, but that has been again nullified by the third recommendation in asking the Legislature to enact proviso (iii) of clause (c), which provides that—

'if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid declaration was published, such increase shall be disregarded, unless it be proved that the improvement was made *bonâ fide* and not in contemplation of proceedings for the acquisition of the land or building being taken under the said Land Acquisition Act.'

Thus throwing the entire onus upon the man to prove in the first place, which is not the ordinary rule of law, that the improvement was made *bonâ fide*. Not that the Corporation is to prove that the improvement was not made *bonâ fide*, but that the person ought to prove that it was made *bonâ fide* and was not made in contemplation of the proceedings. I would not like to add much more at this stage of the argument. We are only dealing with the advisability as to whether clauses (c) and (d) should be retained. I endorse fully the arguments that were put forward by the Hon'ble Members proposing the amendments."

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I beg to support both the amendments of the Hon'ble Dr. Asutosh Mukhopadhyaya and the Hon'ble Babu Surendranath Banerjee on the simple ground that when there is a distinct and separate law in the matter, and when there are provisions in that law regarding these matters, the law should not be restricted by these clauses in favour of the Corporation, and no special ground has been made out in favour of the Corporation for the enactment of these clauses. If these clauses be kept in the statute-book they may not on'y work hard upon the owners of land, but will go against the settled rulings of the judicial authority."

The Hon'ble BABU BOIKANTA NATH SEN said:—"After what has been urged by my hon'ble friends I do not think I ought to take up unnecessarily the



time of this Council, but what I beg to submit, Sir, is this. Clause (c) is either unnecessary or is in contravention of the provisions of Act I of 1894. In section 23 of that Act, we find that in 'determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration the market-value of the land at the date of the publication of the declaration relating thereto.' Here we find this additional clause :—

'The market-value of the land or building shall be deemed, for the purposes of clause first of the sub-section (1) of section 23 of the said Land Acquisition Act, to be the market-value according to the disposition of the land or building at the date of the publication of the declaration relating thereto under section 6 of the said Land Acquisition Act.'

"Has this sentence any meaning? 'According to the disposition of the land or building.' If it be said that it is co-extensive with the first clause of section 23, then it is unnecessary. If, on the other hand, it is contended that it has some meaning, what is the meaning? It would be restricting the Courts in respect of matters which they have to take into consideration, and which they shall not take into consideration under sections 23 and 24. Section 23 provides that in awarding compensation certain matters shall be taken into consideration. Section 24 provides that certain matters shall not be taken into consideration. Now, the Hon'ble Mr. Bolton has referred to the fifth clause of section 24. I would ask why is this provision here again: 'any increase to the value of the land acquired likely to accrue for the use to which it will be put when acquired.' The wording may not be identical, but it is the same. My contention is that, if it be said that this is merely a reproduction of the provisions of sections 23 and 24, then it is unnecessary. If the phrase 'according to the disposition of the land or building' has any particular meaning, then I submit it would be restricting the powers of the Court in fixing compensation so far as they at present enjoy under the existing law, and if it be in any way in contravention of or in conflict with the existing Act, I submit it is a matter for the consideration of the Council whether an India Council Act can be thus superseded, repealed, practically, or interfered with or modified by an Act of the Provincial Council. It may be a question, it will be perhaps a very nice question, for lawyers to discuss hereafter whether this would not be *ultra vires*. I leave this to be considered by the Council. Then it strikes me if the provisions intended to be introduced by in any way in direct conflict with or in contravention of the provisions of the existing law which is embodied in an Act of the Supreme Council, the authority of that Council should be obtained."

The Hon'ble MR. BAKER said :—"In introducing this Bill we received the sanction of the Government of India to these clauses. This Council has the power to modify an Act of the Government of India with the sanction of that Government."

The Hon'ble BABU BOIKANTA NATH SEN said :—"Under the existing rules a preliminary sanction has been taken, but the question even then will arise whether this sanction would cure any defect which would exist if this be found to be in any way contravening or being in conflict with the existing law embodied in that."

"With regard to clause (d),—and here I may say that I do not wish to waste the time of the Council, especially as the Members of Council are very anxious to go away, and more especially those like myself who come from the mufassal,—it appears to me that there is a latent desire and an indirect attempt to prevent fraudulent under-valuation effected by the rate-payers by resorting to unfair means in getting an under-assessment, and I fully sympathise with that. If people come to know that the valuation made in the assessment book would be taken as the standard for the purpose of awarding compensation when cases of land acquisition arise, they would think thrice perhaps before they make any attempts by resorting to unfair means to have their holdings under-valued. I think it will have a direct effect from that point of view, and so far I thoroughly agree; but the question is whether the valuation in the assessment book ought to be taken as the standard. When this Act, I of 1894, was passed, I have no doubt Hon'ble Members will remember there was a great deal of discussion about the fixing of the market value. It was a very

difficult question, and, therefore, it was that in that law those two sections were embodied. Certain matters will have to be taken into consideration; certain matters will be excluded from being taken into consideration. It left the Courts entirely at liberty in the application of equitable principles to fix the assessment according to the circumstances of each case. Now here the Courts will be handicapped. It has been observed by the Hon'ble the Legal Remembrancer that perhaps the law's delay would be avoided to a certain extent. That may be, but the provision won't be equivalent to a stereotyped hard-and-fast rule that this is the annual value which is to be put down in the assessment book, and this is to be the guide. I believe, and I fear, it will act injuriously both for the Corporation and for the rate-payers. I say also that it is not a safe standard; it is not a judicious standard to be adopted. This question ought to be left for decision by the Courts having regard to all the circumstances of the case. Delay may take place; the law's delay is proverbial, and so long as the law will have to be administered in any country there will be delay, you cannot cut down the delay in this way. I submit, therefore, that both these clauses ought to be left out."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I do not wish to get entangled in the meshes of a legal controversy, because if I do get entangled in such a controversy it will be difficult to get out of it. It has become abundantly clear in the course of the debate that no case whatever has been made out for any change of the law. My friend the Hon'ble Member for the University appealed to the Hon'ble the Legal Remembrancer as to what his experience of these cases was, and he said that, working under the existing law, he had found no difficulty whatever, and the only difficulty that ever arose was in connection with the delays that were caused by the operation of the present law. You have already passed a section which avoids those delays, and, therefore, it seems to me that, so far as the practical working of this law is concerned, no difficulties having been felt, there is no justification for this important modification in the law, which is unique and unprecedented, which has no analogy in the municipal legislation of the Empire or of the civilised world. I challenge Hon'ble Members to refer to a single Municipal Act where such provisions in land acquisition proceedings find a place. Therefore, it seems to me that absolutely no case has been made out; and then, Sir, not only has no case been made out, but the whole volume of opinion, the balance of argument, is entirely adverse to the enactment of these provisions. Our contention—I do not know whether we have been able to make the point clear—is this: the present law has worked well; do not have any hard-and-fast rule based upon assessments which are untrustworthy and unreliable; these will lead to difficulties and complications, and, in some cases, the provisions of the Bill will be attended with loss to individuals, in some cases with loss to the Corporation. Why take a leap into the unknown? I think, Sir, this is common sense, especially having regard to the fact there is very strong feeling against these provisions.

"One word about the question of valuation to which the Hon'ble Member in charge of the Bill referred. The Hon'ble Member said that with regard to the waste lands to which I alluded in the course of my observations, the municipal assessment books must have an annual valuation. I do not know what municipal assessment books contain or do not contain. The municipal assessment books are made up by irresponsible parties, though no doubt they are subject to the supervision and control of the Assessor. But the Assessor cannot look into the minutiae of these assessments, and I say it is positively dangerous to make the allotments of compensation depend upon these assessments. My hon'ble friend referred to the annual valuation of an old house and of a new house. And he said there must be a difference in the assessment book. I say no if both the houses are let on hire, and my reasons are these: the annual value in both cases would be dependent upon the letting value—the value upon which the old house and the new house are let. The old house lets for Rs. 100 a month, the new house also lets for Rs. 100 a month, because people do not make a distinction in that way. Therefore the annual value being dependent upon the letting value, the annual value will be the same figure in the one case as it will be in the other case. Therefore any compensation



paid upon the basis of the annual value would be exactly the same in the one as in the other case. Therefore the compensation paid for the old house would be exactly the same as the compensation paid for the new house. If the compensation paid for the new house is inadequate and insufficient, the compensation paid for the old house is excessive and extravagant. How my friend the Hon'ble Member in charge of the Bill persuades himself into an opposite line of argument and an opposite line of conclusion is one of those mysteries which I have not been able to understand. The conclusion seems to be plain and palpable. In some cases there will be loss to the Corporation, in others loss to the public, and it seems to me unnecessary altogether to introduce a change in the law."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, in reply, said:—"I cannot conceal, Sir, that my experience in connection with this debate has been of a very novel character. Each of the four hon'ble gentlemen who spoke on the Government side has made admissions which, when taken together, completely destroy the Government cause. This is a startling statement to make; but I shall show presently that there is no exaggeration whatever. It will be convenient, however, if we specify what these admissions are, and deal with each of them separately.

"The Hon'ble Mr. Oldham endeavoured to meet the concrete case put by me so far as clause (c) was concerned. Clause (c), it may be remembered, deals with the case of the present disposition of the land and building, that is to say, the disposition of the land and building at the date of the publication of the declaration. I gave as a concrete illustration the case of the waste land. My hon'ble friend said there will be some means of valuing it. No doubt there is a means of valuing it, but the law expressly says that you are not to value it, you are not to look to its potential value, but you are to look to its disposition at the time of the publication of the declaration. I am constrained to say, Sir, that my hon'ble friend has given no answer whatever to my argument. Then he takes clause (d), and there he frankly confesses that my arguments are unanswerable; but what is the remedy he suggests? Reduce twenty-five to twenty! I am quite willing to take that if he will fall in with my views in their entirety. I pointed out that, so far as clause (d) was concerned, twenty-five times the annual valuation in the case of residential houses would certainly involve the Corporation in serious loss; but I also pointed out that twenty-five times in the other case would involve the rate-payers in equally serious loss. My hon'ble friend did not advert to this latter part of my argument, and I have the strongest objection to his adopting the first half of my argument and abandoning the other half when the two together really form one indivisible whole.

"I now turn to the observations of the Hon'ble the Legal Remembrancer, who in answer to me admitted that there was no difficulty in administering the present law, except for the delays which are unavoidable; and he ventured to indulge in the hope that if the presumption which is embodied in clause (d) is incorporated in the statute book, such delay will be avoided in future. I venture to think, however, that the result will be just the other way. Under the existing law, when there is no presumption whatsoever, District Judges are allowed to deal with the particular facts of the case they have before them. Under the new law they will be hampered with this additional presumption, which I have shown may be successfully challenged in the majority of instances, and, therefore, the preliminary question in every case will be whether the presumption is applicable or not. Either the Corporation or the rate-payer, whosoever may be interested to do so, will, in the first instance, endeavour to destroy that presumption, and once it has been destroyed the whole operation which has to be performed under the existing law becomes inevitable. Then the Hon'ble the Legal Remembrancer pointed out another very important clause which I had overlooked, namely, that there is a proviso to clause (d) that the presumption that the market value is twenty-five times the annual value of the property is not to come into operation till there has

been a fresh re-assessment after the commencement of this Act. It will be in the recollection of the Council that the other day they accepted my amendment to section 148B (*now* 152), in which they specified the dates upon which the assessments made under the present Act are to terminate in each of the wards of the city. I have already pointed out to you that this presumption is not applicable to all cases in Calcutta; but I now desire to point out, what is still more anomalous, that this presumption will be applicable to different wards on different dates. Take ward No. 10. There the existing valuation comes to an end in March, 1900, so that till then no presumption will apply there. Take ward No. 6. There the valuation comes to an end in 1901. In some of the wards the valuation will come to an end so late as 1906; so that I take it the consequence of this new law will be that in the case of land acquired by the Corporation in 1905 on one side of a street the presumption will apply; in the case of land taken on the other side of the street no presumption will apply. Therefore, not only is it true that you have not one presumption applicable to the whole of Calcutta, but you have one presumption applicable to the Corporation, another to other people, and you have this presumption coming into operation in different parts of Calcutta on different dates ranging from 1900 to 1906. I do not think this is an invention of which any Legislature will be proud.

"I shall next deal with the observations of the Hon'ble Member in charge of the Bill. I devoutly wish, Sir, that instead of being a Member of the Covenanted Civil Service my hon'ble friend had been a Member of the Bar, for he would have been the best defender of bad cases. My hon'ble friend in answer to my argument pointed out, with his usual acuteness, that the cases to which I referred will be covered by clause (d); that is precisely my objection. Clause (c) and clause (d) contradict each other. What is the remedy you propose to apply in the case which is covered by each of the two clauses (c) and (d)? Clause (d) provides that—

'The market value of the land or building shall, until the contrary is shown, be presumed, for the purposes of the said clause *first* of sub-section (1) of section 23, to be twenty-five times the annual value of the property, as entered in the assessment-book prescribed by this Act.'

"Well and good. A parcel of land is valued in 1901; it is acquired by the Corporation in 1906; if you apply the presumption in clause (d), the market value in 1906 is twenty-five times the annual value as assessed in 1901; but the rule in clause (c) also applies, so that you must proceed on the basis of the disposition of the land in 1906. Now, if circumstances have changed in the meanwhile, the valuations obtained by the two processes will be different—a necessary consequence of the fact that you have one presumption in clause (d) and another rule laid down in clause (c). You have clearly two presumptions which contradict each other. Therefore, before the present law can be applied, you will have in every individual case to test the presumption which arises. My hon'ble friend next said, as regards my illustration of the new house and the old house, that the annual value will be different in the two cases. I submit with great respect that this is begging the whole question. Remember that, under section 148A (*now* 151), the principle upon which you proceed is the letting value, not in the case of a lease for a term, but a lease from year to year; that is to say, whether the house be old or new, you have to see what amount of rental would be paid by a tenant who took it only for a year; and whether the house be old or new, if it is in good repair, he will pay the same amount of rent in the two cases. Of course, if you proceeded upon the basis of a lease for a term, say, for ten years, the result might be different; for it would make considerable difference to a tenant who wants a lease of a building for a long term, whether the house is old or new. But so long as you proceed on the basis of a yearly tenancy, the annual value of the old and the new house, as entered in the municipal assessment roll, is bound to be identical, unless, indeed, such assessments are based on some novel and arbitrary principle. I repeat, therefore, that when my hon'ble friend assumes that the valuations in the two cases will be equal, he assumes the very thing which I challenge and which has to be proved.



"Lastly, I must take the observations of the Hon'ble the Chief Secretary. If I understood him correctly, he said that the law as laid down by Sir Richard Garth had been altered by the Act of 1894. Assume this to be the right view; the present provision, then, is a wholly unnecessary piece of legislation, and should be abandoned. But, as a matter of fact, the change in the law has not the remotest bearing upon the present question. Under the law of 1870, the market value had to be ascertained at the date of the award; under the law of 1894, it has to be ascertained at the date of the declaration. But the question now before the Council is whether you are to regard the actual disposition at the date when the declaration is made or any possible disposition of the property. In the judgment of Sir Richard Garth, the learned Chief Justice did not dwell at all upon the fact that under the law as it then existed the property was to be valued, not at the time of the declaration, but at the time when it was actually taken up and the compensation awarded. The point for discussion was, are you to consider the state of the property at the date when it is acquired or estimate its value with regard to any possible use to which it might be put, not between the date of the declaration and the date when it is actually taken up, but any possible use to which it might be put by the owner at any time if the property instead of being acquired for public purposes continued in his possession? That is quite clear from section 23 itself, which provides that you are to take the market value of the land at the date of the declaration. What you are now seeking to do is arbitrarily to define this market value and to put a further restricted meaning upon it. Let me put a concrete case before the Council. Here is a bustee which you want to take up. The owner says that its market value has to be determined at the date of the declaration. He contends that if a person purchased it he would have to pay for it, not what it may bring him in as a bustee, but what it would bring him in as a building site. If he can make that good under the existing law, he will be entitled to get from the party who takes up the land compensation on the basis of valuation upon the footing of its being used for a building site; in other words, if he can make out that the particular plot of land may be used as a bustee or may be used as a building site, the market value will be assessed on the basis of a building site. You change this under the new law and provide that when the Corporation acquires the property used as a bustee, there is to be no reference to any prospective disposition. You do not adhere to the provisions of section 23 of the Land Acquisition Act, you substantially change them in favour of the Corporation alone. But, in your anxiety to favour the Corporation, you manage to contradict yourself. In section 585 (now 557) you attempt to define market value with reference to the annual value as determined for purposes of assessment. You apply your definition to houses let from year to year, but you overlook that, when the question of assessment of these very houses was discussed, you declined to accept my suggestion that such assessment should proceed on the basis of the market value. In one part of the Bill, you declare that there is no relation between market value and rateable value; in another part of the Bill, most inconsistently, you make the one depend on the other; in other words, there is one mode of valuation when property has to be rated, another mode of valuation when it has to be confiscated; in each instance, the citizen is the loser and the Corporation the gainer."

The Hon'ble MR. BAKER said:—"May I be permitted to say one word in reply with reference to what fell from the Hon'ble Babu Surendranath Banerjee and the Hon'ble Babu Boikanta Nath Sen. It is with reference to the section as a whole. It is this. In Calcutta, unlike any other part of Bengal, we have the whole area to which the land acquisition provisions can apply, carefully assessed in the ordinary course of business by a special establishment. All those assessments are subject to the right of the owners first to lodge an objection to the Vice-Chairman, and, finally, to an appeal to the Small Cause Court; and we may take it that on the whole the assessments are most carefully and most accurately made, the interests of both parties being carefully safeguarded. Surely it is a matter of common sense when the Corporation comes to take up land whose value has been determined in that way, that the value to be awarded should depend in some way or other upon the assessment previously made."

The motions being put the Council divided as follows:—

*Ayes 6.*

*Noes 12.*

The Hon'ble Raja Ranajit Sinha, Bahadur, of Nashipur.  
The Hon'ble Babu Jatra Mohan Sen.  
The Hon'ble Babu Boikanta Nath Sen.  
The Hon'ble Babu Surendranath Banerjee.  
The Hon'ble Mr. Apcar.  
The Hon'ble Dr. Asutosh Mukhopadhyaya.

The Hon'ble Mr. Buckley.  
The Hon'ble Mr. Buckland.  
The Hon'ble Mr. Handley.  
The Hon'ble Rai Durga Gati Banerjee, Bahadur.  
The Hon'ble Mr. Mackenzie.  
The Hon'ble Mr. Spink.  
The Hon'ble Sahibzada Mahomed Bakhtyar Shah.  
The Hon'ble Khan Bahadur Maulvi Delawar Hosain Ahmed.  
The Hon'ble Mr. Oldham.  
The Hon'ble Mr. Baker.  
The Hon'ble Mr. Bolton.  
The Hon'ble Mr. Slack.

So the amendments were lost

The Hon'ble MR. BAKER said:—"Before the next amendment on the paper is proceeded with, may I be permitted to move the following proviso to clause (b) of section 585 (*now* 557). It was alluded to when we were dealing with that clause. I said then that I would be willing to make it clear that compensation for sudden disturbance should be allowed, and I think the general idea was that that ought to be done. The Secretary has drafted the following proviso:—

'When proceedings have been taken under the said section 17 for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession.'

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I gladly accept the amendment."

The motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Before I move my next amendment, I should like to ask the Hon'ble Member in charge of the Bill whether he will accept it or not. If he does not accept it, I do not see the use of going on with it. The amendment is as follows:—

'that for the words 'two years' the words 'one year' be substituted in line 5 of proviso (iii) to section 585.'

The Hon'ble MR. BAKER said:—"I do not accept the amendment."

The motion was then, by leave of the Council, withdrawn.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 585 (*now* 557), clause (c), proviso (i), line 9, for "may" be substituted "shall."

He said:—"This is a very small matter. It seems to me that 'may' here means 'shall.' If there is actual loss, compensation 'shall' be paid to the owner and not 'may' be paid to him. As the word occurs twice in the same section, I want to put in the word 'may' in one place and 'shall' in the other."



The Hon'ble MR. OLDHAM said:—"May' means 'may' in this section. It is intended not to bind the Corporation hand and foot, but to leave the law in some degree elastic. It has been already explained how uncertain it is. One Hon'ble Member has asked what the exact meaning of the word 'disposition' was. All that has to be elucidated, and I think it is safer to leave the word 'may' in."

The Hon'ble MR. BAKER said:—"I am informed by the Secretary that this particular clause including the word 'may' was drafted by Mr. Justice Trevelyan himself."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"I am not surprised to hear that, and I must press my amendment on the Council."

The motion was then put and lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name, that in section 585 (*now* 557), clause (c), the words "*surki* mills" be omitted.

The Hon'ble BABU JATRA MOHAN SEN moved—

- (1) that in section 585 (*now* 557), proviso (iii), for the words "unless it be proved that the improvement was made *bonâ fide* and not," the words "when it is established that the improvement was not made *bonâ fide* and was made" be substituted;

- (2) that to the said proviso (iii) the following be added:—

"*Explanation*.—Service of notice, if any, made by the Chairman on the owner or his predecessor of the intention of the Corporation to take proceedings for the acquisition of the land or building shall be conclusive evidence to establish that the improvement made thereafter was not made *bonâ fide*, and was made in contemplation of proceedings for the acquisition of such land or building.

Proviso (iii) shall not apply when the declaration is published more than two years after the matter of the intended acquisition is first discussed at a meeting of the Corporation, or after the service of the notice referred to in the *Explanation*, whichever event first occurs."

He said:—"With Your Honour's permission I would take these two amendments together and also to add to the explanation after the words 'if any' in line 1, the words 'is issued by the Chairman' and leave out the word 'made.'

"The object of these amendments evidently is to shift the burden of proof from one party to another. Clause (iii) provides—

"if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within two years before the aforesaid declaration was published, such increase shall be disregarded, unless it be proved that the improvement was made *bonâ fide* and not in contemplation of proceedings for the acquisition of the land or building being taken under the said Land Acquisition Act."

"The clause as drafted throws the onus of proof on the owner; the object of my amendment is to throw the onus upon the Corporation. Now, Sir, the report of the Building Commission in one part said that if any step is taken to improve the property, then of course 'the present disposition of the property' as embodied in clause (c) would not be injurious to this case; but this proviso militates against that recommendation. You say that, if a person makes an improvement shortly before the declaration, he will get a proper price; but in the next place you say that if the improvement is made not within a few days or a few months or a year, but within two years after the declaration, you must prove that those improvements were made *bonâ fide*, and were not made in

contemplation of an intended acquisition. It is dangerous, I submit, to make a provision of this kind. We all know what the presumption is in Civil Courts: that once an onus is thrown upon a party, it is difficult for him to discharge it. Take for instance a congested area. It is desirable that the congested area should be opened up and some road should pass through it. A discussion is going on, and it is difficult to say what line the road will take. Now the man, not knowing whether the line of the road will take the direction covering his land or house, makes improvements. Perhaps two years afterwards or one and a half year afterwards it may so turn out that the line takes such a turn that his land has to be acquired. Then the presumption would arise that he did not make these improvements *bonâ fide*, and it would be difficult for him to establish the case beyond giving his own deposition.

"Now, Sir, it is a settled principle of law on the rule of evidence and burden of proof that circumstances of mere suspicion which lead to no certain result is no proof of bad faith or fraud, and that no fraud can be presumed against anybody in any case, or, in other words, fraud and dishonesty are not to be assumed upon conjecture, however probable. It may be said that fraud is incapable of being proved by direct evidence, but circumstantial evidence is none the less not difficult of proof and is equally cogent and strong as the evidence of the senses. The evidence of circumstances of fraud must be strong and sufficient to overcome the natural presumption of honesty and fair dealing, and it must be such as to satisfy a reasonable mind of the existence of fraud by raising a counter-presumption, there being no such thing as legal fraud in the absence of moral fraud.

"As to the onus there is no reason why we should deviate from the rules enunciated by the Evidence Act. If the Municipality is convinced of the necessity of acquiring any land or building, there is no difficulty in apprising the owner of such intention by notice prohibiting him to spend money in the improvement of the property. It may be said that if the land is not acquired the Corporation may be held liable to pay damages; but the Corporation must take that risk if it really wants to avoid the burden of proving fraud.

"The provisions proposed to be enacted being in derogation of, and encroachment upon, the rights of owners must be so made as to cause least hardship to them. It is, therefore, I propose, that the onus of proving want of *bonâ fide* must be thrown on the Corporation, which it can easily avoid by giving a notice to the owner.

"Then again there should be some limit of time within which decided action in the shape of publication of declaration should be fixed, and I have not altered the period suggested, which is two years, but have made it definite in the *proviso* suggested by my amendment. Assume, again, a proposal to acquire a piece of land is mooted. After a correspondence of, say, two years, the matter is dropped, and in the meantime the owner is in possession of funds which he intends to invest in building on the land. Who is responsible for the owner's loss? Then, again, suppose as soon as the owner begins to build on the same land, say, after a year, the matter was dropped, but after the correspondence was re-opened for acquiring the same piece of land, and it is ultimately decided that the acquisition is necessary, and a declaration is published under this Government's further orders. In this manner, the owner may be delayed to exercise his undoubted right to improve his property for an indefinite period.

"Let me take another instance. A discussion is set on foot at a meeting of the Corporation to open a congested area by making a road, or that the idea is conceived by one of the authorities, and the matter is made the subject of correspondence. No plan is drawn; there is no knowing what the line of the road will be, but should any person make any improvement and the road happens to pass through his improved property, the onus is thrown upon him to prove *bonâ fide*, and we all know how difficult it is to discharge it. It may be urged on behalf of the Corporation that the man was aware of the proposal of the acquisition, and he, in order to get a large compensation, made the improvement, and the suggestion is sure to be accepted. Now here the Corporation may not know what line the road would take, and yet the presumption is going to be made in favour of the Corporation and against the owner of the property who may be ignorant as to the line the road would take."



The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said:—"I beg that the amendment which stands in my name in the list of business may be taken with the two just moved. My amendment is as follows:—

"That in proviso (iii) to clause (c) of section 585 (now 557) the words 'if it be proved that improvement was made not *bonâ fide*, but' be substituted for the words 'unless it be proved that the improvement was made *bonâ fide* and not.'"

"My amendment, though not identical with the amendment just moved by the Hon'ble Babu Jatra Mohan Sen, purports to be the same, and the object of my amendment is this: that in the matter of land acquisition matters the Chairman of the Corporation is also to be considered a party, and when it is to his advantage that the improvement made by the owner should be disregarded, it is fair that he should have to prove that the improvement was made not *bonâ fide* but on contemplation to fetch higher compensation."

The Hon'ble MR. BAKER said:—"In moving his first amendment the Hon'ble Babu Jatra Mohan Sen said that his object was to throw the onus of proof on to the Corporation. Could anything possibly be more unreasonable? What the Corporation would have to prove would be a negative as to the intention of some private person in doing some act, two years beforehand. How could they possibly discharge any such obligation? The Hon'ble Member referred to some principles of the law of evidence. As I understand it, Sir, there is a recognised principle in the law of evidence to the effect that the burden of proving any particular fact shall lie upon the party who is best able to prove it. Surely, if an owner has carried out an improvement *bonâ fide* within the period specified in the section, he is the person best able—in fact he is the only person who is able—to show that the improvement was carried out in good faith and not with the intention of extorting higher compensation from the Courts.

"Then, Sir, with reference to the second amendment of the Hon'ble BABU JATRA MOHAN SEN, I would ask the Council to look at the terms of the proviso, which is as follows:—

'Proviso (iii) shall not apply when the declaration is published more than two years after the matter of the intended acquisition is first discussed at a meeting of the Corporation.'

"Could any words possibly be more vague and indefinite? There may be no record. The matter may come up at a meeting of the Corporation in a casual incidental way without notice; there might be no proper discussion on it; no one might know anything about it. But because one or two members may have been talking casually about it, this proviso is to come into operation and the rule in proviso (iii) of section 585 (now 557) is not to apply. I will not trouble the Council with any further observations. It appears to me that the whole of the second amendment is absolutely impracticable. I should have had very little objection to a notice being served by the Chairman on the owner of any land whose property it was in contemplation to take up, but to rule that after the lapse of two years, if the Corporation have not published a declaration, the whole of this clause is not to apply would absolutely destroy the effect of the section which the Building Commission recommended."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I feel very strongly the force of the observations which have been addressed by the Hon'ble Member in charge of the Bill. It would be difficult on the part of the Corporation to prove a thing of that kind, because the knowledge would be knowledge which would be in the possession of the party concerned; and as for proving a negative, I think my hon'ble friend will remember the case where he has called upon an unfortunate person, who makes an application for the approval of a site of a building or for a plan of a building, to prove a negative: the applicant is to satisfy the Chairman that there are no objections which might be brought forward against the site or against the plan. Therefore, as far as that is concerned, my hon'ble friend in charge of the Bill and the hon'ble mover of this amendment stand exactly upon the same footing. The Hon'ble Member in charge of the Bill has placed an impossible burden upon an unfortunate individual, and my friend the Hon'ble Babu Jatra Mohan Sen proposes to place an impossible burden upon the Corporation."

The Hon'ble MR. OLDHAM said:—"No one has noticed the explanation proposed to be moved in section 585 (*now* 557). I do not suppose my colleagues in the Corporation will consent to that. It leaves it possible for the Chairman to employ any spare time he may find on his hands in issuing notices which would bind the whole of Calcutta."

The Hon'ble BABU JATRA MOHAN SEN said:—"It is not an unknown thing in the Law Courts that the onus of proving that a man has not a certain intention often lies upon the party who has to establish a negative. For instance, in the case of fraud, although it is within the knowledge of the person who commits fraud, nevertheless both in criminal and civil cases the onus is not upon the person who alleges absence of fraud to prove that he did not commit a fraud, but upon the person who alleges that fraud has been actually committed. Therefore, it is not unusual in Courts of Justice to prove a negative, but is it really the case here, as the party alleging fraud has to prove it. As my friend the Hon'ble Babu Surendranath Banerjee has pointed out, the case where a person has to do the impossible feat of satisfying the Chairman that there is no objection on the part of the Chairman or any party as to whether a site is fit for a building site. If that could be proved by a person, I do not see why the Corporation should not prove a negative of this kind. And then again it is very easy for the Corporation to know whether they are going to acquire a piece of land. Service of notice is the easiest mode of proving a case. Therefore, I have provided that, if notice is served by the Corporation intimating their intention of acquiring a particular piece of land, the onus is to be shifted, and I have provided that it would be conclusive evidence that the improvement was made *mala fide*. That is a very simple procedure to follow."

The Hon'ble BABU JATRA MOHAN SEN's first motion was then put and lost.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR's motion was then put and lost.

The Hon'ble BABU JATRA MOHAN SEN's second motion was then put and lost.

#### SECTION 559.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the motion, standing in his name, that the words "and unfiltered" be inserted after the word "filtered" in clause (5) of section 590 [*now* clause (6) of section 559].

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "market" in line 5 of clause (35) of sub-section (2) of section 590 [*now* clause (36) of section 559] the words "or elsewhere" be inserted.

He said:—"This is a small matter, and I will not trouble the Council at any length. This section refers to the making of bye-laws by the General Committee. Clause (35) [*now* (36)] provides:—

'for preventing persons suffering from any loathsome disease from keeping stalls in, or being employed in preparing or selling articles of food in, any market, or from entering any municipal market or touching any article brought thereto for sale, and for authorising the expulsion of such persons from any municipal market.'

"I do not know whether the Hon'ble Member in charge of the Bill will think that they ought to be prevented, but loathsome people suffering from disease ought to be prevented from selling these things."

The Hon'ble MR. BAKER said:—"It seems to me, Sir, that while the provision is perfectly right as regard municipal markets or any market, it would not be right in a Municipal Act to take power to prevent these people from selling food elsewhere. That is a matter for a Police Act or a Lepers Act. I think it would be out of place in a Municipal Act."

The motion was then, by leave of the Council, withdrawn.



The Hon'ble BABU SURENDRANATH BANERJEE also moved that after clause (35) of section 590 [now clause (36) of section 559] the following clause be added:—

“(35a) for preventing persons suffering from any infectious or contagious disease living in places where food or drugs is or are sold, stored or prepared, and for regulating the business of the place where any such case has occurred.”

The Hon'ble MR. BAKER said:—“I will accept this amendment if the word ‘disinfecting’ is substituted for the words ‘regulating the business of.’ The expression ‘regulating the business of’ is too wide.”

The motion was put in the amended form and agreed to.

The Hon'ble MR. BAKER moved that in clause (5) of section 590 [now clause (6) of section 559] the words “directing and” be omitted.

He said:—“It was provided on the motion of the Hon'ble Babu Surendranath Banerjee the other day that there should be a section inserted in the Bill directing the weekly testing of the purity of water. Therefore, it becomes unnecessary that a bye-law should direct the testing of the purity of the water.”

The motion was put and agreed to.

#### SECTION 569.

The Hon'ble MR. BAKER moved that in section 597 (now 569), sub-section (1), the words “section 61B (now 68)” be inserted before the words “section 65 (now 73).”

He said:—“This is practically a consequential amendment. When we were dealing with section 61B (now 68), which provides that the Local Government may make rules prescribing the qualifications of candidates for employment in the Health, Conservancy and Engineering Departments, respectively, of the Corporation, it was decided, at the instance of the Hon'ble Babu Surendranath Banerjee, that the rules should be framed by the Corporation with the sanction of the Local Government. The sanction of the Local Government is provided for by inserting a reference to section 61B (now 68) in section 597 (now 569), and I now move that that reference be inserted.”

The motion was put and agreed to.

#### SECTIONS 574, 575 AND 577.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the following motions standing in his name:—

(1) that, in the tabular statement annexed to section 602 (now 574), for “329F (now 344), sub-section (1),” be substituted “329F (now 344);”

(2) that, in the tabular statement annexed to section 602 (now 574), the following be inserted:—

Section 391D (now 383), sub-sections (3), (4).	Building contrary to plan or rules.	One hundred rupees.
Section 398 (now 388)	... Erecting hut without permission	Twenty-five rupees.
„ 421 (now 402)	... Ditto ...	Ditto.
„ 422 (now 403)	... Ditto ...	Ditto.

The Hon'ble MR. BAKER moved that, in the tabular statement annexed to section 602 (now 574), the following be inserted:—

Section 253A (now 262)	... Replacing or alteration of fittings for supply of filtered water for the flushing of privies or urinals.	Fifty rupees.
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The motion was put and agreed to.

The Hon'ble MR. BAKER also moved that, in the tabular statement annexed to section 603 (*now* 575), the following be inserted:—

Section 253A ( <i>now</i> 262)	...	Replacing or alteration of fittings for supply of filtered water for the flushing of privies or urinals.	Five rupees.
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He said:—"This is a necessary penalty for neglecting to replace or alter the fittings for the supply of filtered water for the flushing of privies or urinals. In section 602 (*now* 574) the penalty proposed is Rs. 50, and in section 603 (*now* 575) the daily fine of Rs. 5 is suggested. I beg to move that these penalties be inserted."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have no objection."

The motion was put and agreed to.

The Hon'ble MR. BAKER said:—"At this stage I would ask permission to move, in consequence of the decision arrived at this morning with reference to party walls; that the reference to section 370A be omitted from sections 602 and 603 (*now* 574 and 575)."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that, in the tabular statement annexed to section 603 (*now* 575), the following be inserted:—

Section 329F ( <i>now</i> 344), sub-section (1)	...	Erection or maintenance of sky-sign without permission.	Fifty rupees.
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He said:—"Section 329F (*now* 344), sub-section (1), read with section 602 (*now* 574), provides that for the erection or maintenance of a sky-sign without permission a fine of Rs. 200 may be imposed. I propose that a penalty for continual infringement of the provisions of section 329F (*now* 344), should be prescribed. In section 602 (*now* 574) we have a penalty of Rs. 200 for erecting or building a sky-sign without permission, and it is proposed that, if on the imposition of the fine on the first occasion the owner continues the illegal act, there should be a further fine.

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that in section 605 (*now* 577), line 4, after "employer" be inserted "or employé."

The Hon'ble MR. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that, in the tabular statement annexed to section 603 (*now* 575), the following be inserted, namely:—

Section 254D ( <i>now</i> 268), sub-section (1)	...	Waste of water supplied to premises.	Five rupees.
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The motion was put and agreed to.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that, in the tabular statement annexed to section 603 (*now* 575), for "Section 478 (*now* 453), sub-section (5)," be substituted "Section 478 (*now* 453)," and for "Section 482A (*now* 455)" be substituted "Section 482A (*now* 455), sub-section (5)."

The motion was put and agreed to.



The Hon'ble BABU SURENDRANATH BANERJEE, by leave of the Council, withdrew the motion, standing in his name, that the words "or employment" in line 7 of section 605 (*now* 577) be omitted.

He said:—"This amendment must be withdrawn having regard to the adverse verdict of the Council upon a similar amendment. This is merely consequential, and I withdraw it."

#### NEW SECTION.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion, standing in his name, that after section 608C (*now* 583) the following be inserted:—

"608D. It shall be competent to the Court which sentences an offender under section 602, section 603, section 607, section 608, section 608A, section 608B or section 608C (*now* 574, 575, 579, 580, 581, 582 and 583) to direct by the sentence that in default of payment of the fine the offender shall suffer simple imprisonment for a term not exceeding one month."

#### SECTION 584.

The Hon'ble BABU SURENDRANATH BANERJEE moved that section 609 (*now* 584) be omitted.

He said:—"I have one word only to say with regard to this matter. Section 609 (*now* 584) provides:—

'Any mehter or other servant of the Corporation referred to in section 467 (*now* 438) who withdraws from his duties in contravention of that section shall be punished with fine which may extend to one hundred rupees, or with rigorous imprisonment for a term which may extend to three months, or with both, and shall forfeit any salary which may be due to him.'

"I am bound to mention that this is the law, but the law is absolutely nugatory. The object is to prevent a strike, but this section has never been enforced. We had something like a strike during the plague; but the Executive did not feel strong enough to enforce the provisions of this section. All that I have got to say is that, as this section is practically a dead-letter, why have it in the law? But, if the Hon'ble Member in charge of the Bill has any strong objection, I will not press it."

The Hon'ble MR. BAKER said:—"When this matter was discussed in the Select Committee Babu Narendra Nath Sen strongly opposed his colleague. He said he was entirely in favour of retaining the provision, which is in accordance with the existing law. Then the Hon'ble Babu Surendranath Banerjee, finding himself alone, withdrew his objection."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I will follow the example which I set in the Select Committee, and I will withdraw the amendment."

The motion was then, by leave of the Council, withdrawn.

#### SECTION 585.

The Hon'ble BABU SURENDRANATH BANERJEE moved that for the word "or" in line 6 of section 610 (*now* 585), the words "and in default of payment of fine" be substituted.

He said:—"Section 610 (*now* 585) provides:—

'Any person who, in contravention of section 667 or section 668 (*now* 647 and 648), obstructs or molests any person with whom the Chairman has entered into a contract, or removes any mark, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.'

"This is an amendment which leans in the direction of mercy. If there is an interference, the person who molests or interferes is to be fined, and, in default of fine, he is to be imprisoned. The section gives the discretion to the Magistrate either to fine or to send the person to imprisonment."

"The offence is not of such a serious character as to deserve imprisonment in the first instance. Therefore, I want to take away the discretion which the section gives to the Magistrate to send the man to prison."

The Hon'ble MR. BAKER said:—"This section merely reproduces the present law, and I think that no case whatever has been made out for making any change."

The motion was then put and lost.

#### SECTION 596.

The Hon'ble BABU SURENDRANATH BANERJEE moved that after the word "dissatisfied," in line 1 of sub-section (4) of section 621 (*now* 596), the following words be inserted:—

"with any order passed by the Chairman under sub-section (2) or."

He said:—"This amendment refers to section 621 (*now* 596), which provides:—

'The Chairman may enter upon any land adjoining or within one hundred yards of any works authorised by this Act or any rule, bye-law or regulation made hereunder, for the purpose of depositing upon such land any soil, gravel, sand, lime, bricks, stone or other materials or of obtaining access to such works, or for any other purpose connected with the carrying on of such works.

(2) The Chairman shall, before entering upon any land under sub-section (1), give the owner and occupier three days' previous written notice of his intention to make such entry, and of the purpose thereof, and shall, if so required by the owner or occupier, set apart by sufficient fences so much of the land as may be required for the purposes mentioned in or referred to in the said sub-section.

(3) The Chairman shall not be bound to make any payment, tender or deposit before entering upon any land under sub-section (1), but shall do as little damage as may be, and shall pay compensation to the owner and occupier of the land for such entry and for any temporary damage that may be done in consequence thereof, and shall also pay compensation to the said owner for any permanent damage resulting therefrom.

(4) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the Chairman, he may appeal to the General Committee, whose decision shall be final.'

"The Chairman may delegate this power to some underling, and, therefore, it seems to me that a right of appeal ought to be provided against any harsh order which might be passed by any person to whom this authority might be delegated."

The Hon'ble MR. BAKER said:—"Here, again, the section is a mere reproduction of the existing law, and the Hon'ble Member has cited no case in which any inconvenience or difficulty has arisen in consequence.

"The Chairman will have no greater power of delegation in the future than he has had in the past. The power to enter on land for the purpose of depositing materials is a very small matter indeed. It is an absolute right at present in the hands of the Corporation, or rather of the Chairman under the present law. We propose that that same absolute right, which may be absolutely necessary for the proper conduct of the Corporation's work, should remain vested in the hands of the Chairman. The only matter with regard to which any right of appeal should lie is as to the amount of compensation, and for that appeal we have provided."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I should like to point out a misapprehension. If it is the present law, it is a power vested in the Chairman which he exercises subject to the revisional jurisdiction of the Corporation. Therefore, what I propose is much less than what is provided in the present law. The Corporation can now revise any act done in this behalf by the Chairman or by any of his subordinates. I do not want to go so far. I want that the power of revision which in respect of proceedings of this kind is vested in the Corporation should be vested in the General



Committee. I think the Hon'ble Member in charge of the Bill ought, after this explanation, to accept my amendment."

The motion was then put and lost.

#### SECTION 617.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 640 (*now* 617), after the figures "652 (*now* 632)" the words "and in the Land Acquisition Act, 1894, as amended by section 585 (*now* 557) of this Act," be inserted.

He said:—"This, Sir, is a matter of great practical importance and is intended to make clear what I cannot but believe is the intention of the law. My object is to have it made clear that a Small Cause Court is not to have any jurisdiction under section 640 (*now* 617) in cases under the Land Acquisition Act, and I am assured by the Hon'ble Member in charge of the Bill that this is precisely the intention. The section as amended will read as follows:—

'Where, in any case not provided for by section 639 (*now* 616), any Municipal authority or person is required by or under this Act or any rule, bye-law or regulation made hereunder to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided, in sections 552, sub-section (3), 538, 621, 638, and 652 (*now* 505, sub-section (3), 512, 596, 615 and 632), and in the Land Acquisition Act, 1894, as amended by section 585 of this Act, by the Court of Small Causes, on application being made to it for this purpose at any time within one year from the date when such expenses or compensation first became claimable.'

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think this amendment ought to be accepted. There is a general feeling in some quarters that these cases will now be tried by the Small Cause Court, and that the jurisdiction of my hon'ble friend, who so worthily presides over these cases in the 24-Parganas, may not be withdrawn, and I hope, Sir, my hon'ble friend's amendment will be accepted."

The Hon'ble MR. BAKER said:—"I quite accept the amendment."

The motion was put and agreed to.

The Hon'ble BABU JATRA MOHAN SEN moved that in section 640 (*now* 617) the figures "522" be substituted for "552 (*now* 505)."

The motion was put and agreed to.

#### NEW SECTIONS.

The Hon'ble MR. BAKER moved that the following sub-heading and section be inserted, namely:—

##### *Recovery of certain dues.*

"642A (*now* 620). Any sum due to the Corporation—

- (a) for water supplied or taken under section 252A (*now* 254) or section 254Q (*now* 279), sub-section (1), or
- (b) on account of any fee imposed under section 459C (*now* 431), clause (b), section 483 (*now* 458), sub-section (2), section 497 (*now* 475) or section 540 (*now* 520), clause (a), or
- (c) on account of any fee imposed under sub-section (3) of section 505 (*now* sub-section (2) of section 481) in respect of any place set apart under proviso (iii) to sub-section (1) of that section,

shall be recoverable in the manner provided by Chapter XVIII (*now* XVIII) for the recovery of the consolidated rate.

He said: "The object of this section is to provide for the recovery of certain dues and fees which otherwise the Corporation would only be able to recover by means of a civil suit. These particular fees are the following:—

- under section 252A (*now* 254) there is the cost of water supplied for non-domestic purposes,
- under section 254Q (*now* 279) there is the cost of water supplied to persons residing outside Calcutta,
- under section 459C (*now* 431), clause (b), there are fines leviable for the removal of trade refuse,
- under section 483 (*now* 458), sub-section (2), the fees for removing carcasses of dead animals,

under section 497 (*now* 475) there are fees for the use of dhobi-khanas, under section 540 (*now* 520), clause (a), there is a fee payable for disinfecting public conveyances, clothing, and other articles which are infected by some dangerous disease, and under section 505, clause (3) [*now* 484, sub-section (2)], there is a fee for licensing private markets.

"If we add no provision of a similar kind to this section, it would be necessary for the Corporation to file a suit in order to recover any of these dues. That is plainly undesirable, and I, therefore, propose that we should take power to recover them under the proceedings for recovery of consolidated rates."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have great pleasure in supporting this amendment. I think public dues ought to be recovered in the way the Hon'ble Member suggests. I should like, however, to ask a question, namely, whether any fee is levied on *kalisthans* or private slaughter-houses—those places in the northern part of the town where there are images of the goddess Kali, and kids are slaughtered. I want to know whether they pay any fees at all, and, if not, whether it is intended by clause (c) to impose any fees upon them."

The Hon'ble MR. BAKER, in reply, said:—"Section 505 (*now* 481) relates to slaughter-houses, and you will find full information as to the fees which are leviable in that section. The section was considered very fully, and was largely modified at the instance of Babu Narendra Nath Sen. The section only provides for such fee as may be prescribed by the Corporation."

The motion was put and agreed to.

The Hon'ble MR. BAKER also moved that the following sub-heading and section be inserted, namely:—

*Limitation of time for appeal.*

Limitation of time  
or appeal.

"642B (*now* 621). In any case in which no time is prescribed by the foregoing provisions of this Act for the presentation of an appeal allowed thereunder, such appeal must be presented within thirty days after the date of the order or proceedings against which the appeal is made."

He said:—"This is intended to provide a limitation for appeals. In various sections of the Bill an appeal is allowed either to the Small Cause Court or to the General Committee or in one case to the Government of India. In three cases we have prescribed in the section itself the period of appeal. Under section 26E (*now* 23) the period is 30 days; under sections 148M and 148N (*now* 162 and 163), which are appeals against assessments to the Small Cause Court, the period is also 30 days; and in Schedule III (*now* II), Rules 14 and 17, when the appeal goes to the Small Cause Court or a Bench of Commissioners, the period fixed is 15 days. But there are eight or nine other cases in which appeals are allowed, and in those cases we have not fixed any period of limitation. Therefore, it is now proposed to rule that in all cases, where no specified period is allowed, a term of 30 days shall be prescribed. Thirty days appears to be a convenient period, and, I think, that may be fairly accepted."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I have a small suggestion to make. There may be cases in which perhaps it may not be possible to submit an appeal within 30 days. The Hon'ble Member in charge of the Bill may not perhaps object if I suggest a small amendment, *viz.*, that after the words 'within thirty days' be inserted 'or a longer period according to the discretion of the General Committee.' Supposing a person is away in the mufassal, and he is not able to come within 30 days. These are executive and not judicial matters. In such a case a discretion ought to be given to the General Committee to prolong the period for the receipt of the application. I do not think the Hon'ble Member in charge of the Bill will object to this. And I may point out that section 5 of the Indian Limitation Act enables the Courts to exercise this discretion."

The Hon'ble MR. BAKER, in reply, said:—"The General Committee will always be able to exercise that discretion without any express provision here."



The Hon'ble BABU SURENDRANATH BANERJEE said :—"How are we to know that? If you have a hard-and-fast rule, I do not know whether they will exercise the discretion. I think it is not sufficient to say that they have got the discretion and leave it to be inferred."

The Hon'ble MR. BAKER said :—"Would the Hon'ble Member agree to the following words being added after the words 'such appeal' in line 2 of my amendment: 'subject to the provisions of section 5 of the Indian Limitation Act.'"

The Hon'ble BABU SURENDRANATH BANERJEE said :—"Yes, that will do."

The Hon'ble MR. BAKER said :—"In that case, with Your Honour's permission, I will make that modification."

The motion in this amended form was put and agreed to.

#### SECTIONS 617 AND 629.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the following motions standing in his name :—

- (1) that the words "on the recommendation of the Corporation" be inserted after the words "The Local Government may" in line 1 of section 649 (*now* 617);
- (2) that the words "a Municipal Commissioner or being" be inserted after the words "by reason only of his being" in section 650 (*now* 629).

#### NEW SECTIONS.

The Hon'ble MR. BUCKLEY moved that the following sub-heading and sections be added after section 668 (*now* 648):—

*"Special provisions as to land and buildings in Hastings."*

"668A (*now* 649). Notwithstanding anything contained in this Act, all land and buildings belonging to the Government in that part of Hastings which is included in Calcutta shall be subject to the control of the General Officer Commanding the Presidency District.

"668B (*now* 650). Notwithstanding anything contained in this Act,—

- (a) permission to erect a masonry building in the said part of Hastings shall not be given or be deemed to have been given unless and until the sanction of the Government of India has been obtained; and
- (b) such sanction shall not be applied for unless the plan of the building and the site-plan of the land are approved by the Commissioner of Police.

"668C (*now* 651). (1) If the erection or re-erection of any masonry building in the said part of Hastings is, after the commencement of this Act, commenced, carried on or completed without obtaining the sanction of the Government of India, the General Committee shall, if requested by the General Officer Commanding the Presidency District so to do,—

- (a) by written notice direct the owner to demolish the building, or
- (b) themselves cause the building to be demolished, at the expense of the owner.

(2) No person shall be entitled to any compensation on account of such demolition.

"668D (*now* 652). Section 608 (*now* 580) shall also apply when any direction is given under clause (a) of section 668C (*now* 651)."

He said :—"The amendment refers to the portion of the Maidan which the Hon'ble Members know as Hastings, situated in the north-west corner of the Maidan. The portion to which the amendment refers lies to the south of Clyde Row, and to the south of the new road which leads down to Tukta Ghat, and to the north of Tolly's Nala. This place was originally called 'Coolie Bazar,' and was used as a depôt of the Fort, and is still used to some extent for the residence of commissariat coolies. A special Act was passed in 1868 referring to this area, and it was incorporated in Calcutta; since that date the Act of 1876 and the Act of 1888 have both included the area in question as part of Calcutta; and in this Bill the same area is included as part of the Town. During these years several notifications were issued with the sanction of the Government of India which refer to this same part, among others, as being within Fort William in Bengal. So that Hastings since 1858 is within the limits of Calcutta, and at the same time under those notifications is within the limit of Fort William. Fort William means the Maidan *plus* the Fort. There is a special Act referring to the Fort alone, and the Maidan, which is outside the

control of General  
Commanding  
Presidency Dis-  
trict Government  
and buildings.  
Government of India require  
erection or re-  
erection of masonry  
buildings.

erection of build-  
ings erected or re-  
erection without such  
sanction.

erection of sec-  
tions (fines).

- \* glacis of the Fort and within the limits of Fort William, is under the jurisdiction of the Government of Bengal. There are no very clear and accurate rules about this Maidan: but there are certain arrangements between the Government of Bengal and the Government of India in the Military Department concerning the action of the authorities within these limits. The Government of India has now decided to issue a new notification declaring that the southern part of Hastings will not be within Fort William in Bengal. Although this will make matters satisfactory as regards Calcutta, it does not fully satisfy the Government of India. It has always been held essential that within a certain distance of the Fort there should be a control over the erection of buildings, and the Government of India insists that there should be this control over buildings in Hastings; consequently they have directed that the Government of India in the Military Department should have a control over the construction of buildings there, and any one who wishes to build in Hastings must first get the consent of the Commissioner of Police, who will forward the application to the Government of Bengal for the purpose of obtaining the sanction of the Government of India. When that sanction has been obtained, all the provisions in the Bill for the construction of buildings in Calcutta will apply and will have to be carried out. These regulations have, as a matter of fact, been in force all these years, although the Members of the Corporation may not be aware of it." "

The Hon'ble MR. APCAR said:—"I have no desire to follow my hon'ble friend in the circumlocution proceedings which he has described. I only wish to know whether these regulations should apply now to the part of Hastings north of Clyde Row."

The Hon'ble MR. BAKER said:—"That portion of Hastings is not within the limits of Calcutta."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"We are reduced to a somewhat anomalous position. Hastings is a part of Calcutta; we are responsible for its sanitation, and yet, when buildings have to be constructed, the application has to be made first to the Commissioner of Police, then to the Government of Bengal, and then to the Government of India, and the Government of India will send it back to the Government of Bengal, who will forward it to the Corporation! How long will this circuitous process take? When will the applicant expect to get a reply?"

The Hon'ble MR. APCAR said:—"It is for the purpose of giving the military authorities control so as not to interfere with the command by the Fort of the approaches of the river."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I don't object. I only want information. I want to point out to the Council the serious difficulties which will be placed in the way of parties making applications to build in Hastings."

The Hon'ble MR. BAKER said:—"Hastings is entirely a Government estate, and people who build there can only do so to a very small extent. It is really not a matter of any great importance."

The motion was put and agreed to.

#### SCHEDULE II.

The Hon'ble BABU BOIKANTA NATH SEN moved that the following amendments be made in column 3 of the table appended to rule 1 in Schedule III (now II), namely:—

- (1) opposite serial number 1, for "Two hundred rupees" substitute "One thousand rupees";
- (2) opposite serial number 2, for "One hundred rupees" substitute "Five hundred rupees"; and
- (3) opposite serial number 3, for "Ditto" substitute "One hundred rupees."



He said:—The real question is that the fee payable by a Company or Association or body of individuals, the paid-up capital of which is equivalent to ten lakhs of rupees or upwards, should be Rs. 1,000 and not Rs. 200; that the fee payable by any other Company or Association or body of individuals should be Rs. 500 and not Rs. 100; and that the fee payable by merchants, bankers, wholesale traders, commission agents, architects, civil engineers, builders, contractors, auctioneers or carriers should remain, as in the Bill, Rs. 100. I find that the Calcutta Corporation has got stupendous drainage and other works in hand, and this Bill contemplates the carrying out of very large schemes of improvement. Funds will, therefore, be required, funds commensurate with the magnitude of the works. Where are these funds to come from? It is all very well to make provision for carrying out big schemes, but the real question is that you must have funds to carry out these schemes. The Corporation will either have to raise loans or increase its taxes. There are no other means of getting money. Even if Maharani Surnamoye were alive, she would not have been able to make a gift of money commensurate with the large works in hand. I venture to submit that large companies, rich merchants and rich bankers ought to pay much larger sums for their licenses than are provided for in the Bill. An annual payment of Rs. 1,000 will not be seriously felt by companies, merchants and bankers whose capital may range from ten to fifty or sixty lakhs. The rates and taxes of the Calcutta Municipality, I find, amount to about 46 lakhs a year, of which the European commercial community pay but a small proportion, and, if you take into consideration the amount of exports and imports, the proportion paid by them will amount to the very small fraction of .012. Therefore, can it be said, with any degree of propriety, that it will be unjust if these classes of Companies and Associations are called upon to pay annual license-fees of Rs. 1,000 and Rs. 500, respectively, when their profits amount, perhaps, to lakhs of rupees a year? I venture to submit that not only is there justice and fairness in such a demand, but I believe the demand of the Corporation in this respect cannot be met by any reasonable argument on the other side. The European commercial community are represented by gentlemen who have their British instincts, and they should not complain that the payment of the increased license fees, which I propose to ask them to pay, is harsh or unjust, when they consider all that the Corporation has been and is doing for them. The Calcutta Fire-brigade is maintained by the Corporation for the benefit of the owners of jute-mills and others. They enjoy these benefits, and they ought to show their appreciation of these benefits by accepting this amendment. It cannot be said that the increased amount of fees to be paid will convert the license-tax into a sort of income-tax. An income-tax is paid for Imperial purposes and for Imperial reasons; this license-tax is for purposes of local administration and for local advantages derived from the municipality. And those purposes become emphasised when it is considered that the community to be affected by the proposed amendment preponderate, according to statements connected with this Bill, in wealth and influence, and who also preponderate in representation both in the Corporation and in the General Committee; and I, therefore, venture to submit that their contributions ought also to preponderate in proportion to their wealth and influence and representation in the Municipality. I do not wish to take up the time of the Council by speaking unnecessarily, but only wish to add that this schedule does not seem to have been framed on sound principles. There is such disparity between the several provisions of this schedule, that it seems to be the product of a strong combination of injustice and anomalies. A barrister who may earn Rs. 10,000 a month pays Rs. 50 a year, while a vakil who, perhaps, makes Rs. 50 a month has to pay the same amount. I think it would be well if the Council gave its attention to the correction of this schedule. I do not think I need say anything more, except that I consider this an amendment which the Council should accept."

The Hon'ble MR. MACKENZIE said:—"Sir, so far from cordially accepting the terms of the amendment, I am as strongly opposed to it as I can possibly be, and I ask the Council to reject it, on the ground that the license fees at present levied on the classes named press quite heavily enough—in fact too heavily."

"The Calcutta limited companies are the main support of the municipalities in which their factories are situated—in fact, they pay for everybody else who lives in such municipalities. If a merchant pays his municipal taxes, what should it matter to the Corporation what number of agencies that merchant's office roof covers? And yet, as a matter of fact, he pays license-tax for each such agency. Take the case of tea companies, in which unfortunately big capitals usually means the opposite of large returns, and many of these cannot now meet expenditure. How could they afford to pay Rs. 1,000 for license-tax?"

"If, Sir, this amendment be carried, which I hope it will not, it will be my duty to propose that on the same principle that the Imperial Government exempt machinery from import-duty, that the Corporation should exempt limited companies from fees of the kind proposed in the amendment. The growth and prosperity of limited companies in many ways lead to the prosperity of the municipality, just as machinery leads to the prosperity of the Empire; therefore they should be free to flourish exempt from taxes or charges for which the municipality do little or nothing.

"Throughout this debate, Sir, I have upheld the principle that, while we are imposing new duties and responsibilities on the municipality by reason of building regulations, &c., we should do nothing to diminish or contract the present income of the Corporation; but I should object to its being increased at the expense of those who at present contribute most largely to it, and specially so that any augmentation should be enacted without reference first being made to the Chamber of Commerce and other bodies interested."

The Hon'ble MR. BAKER said:—"I am disposed to agree with the hon'ble mover of the amendment that it will be desirable to devise some means by which a larger income will be provided for the Corporation; but I am altogether opposed to the present amendment, which simply has the effect of increasing the amount of license-tax paid by joint-stock companies. The hon'ble mover proposes that companies with a capital of ten lakhs and upwards should pay Rs. 1,000 a year, instead of Rs. 200, and those with a capital of less than ten lakhs should pay Rs. 500, instead of Rs. 100, multiplying the amount in both cases by five. But he leaves all the other items in the Schedule untouched. There are two reasons for which I cannot accept this amendment. There is no reason why a joint-stock company, whatever its capital may be, should be taxed so highly, while private firms are left alone. A large mercantile firm often uses in its business a larger capital than joint-stock companies do, and there is no reason why one should be taxed so differently from the other. Suppose a company, with a capital of ten lakhs, makes a profit of 5 per cent., that is to say, Rs. 50,000 a year; the Hon'ble Member proposes to tax that company to the tune of Rs. 1,000 a year, so that they will have to pay 2 per cent. on their profits in the shape of a license-tax. I consider this to be very excessive taxation coming on the top of the other taxes these companies have to pay. Why should a joint-stock company have to pay a much larger tax than large commercial firms, whose income may be much larger? It would be preposterous to accept such a proposal.

"Then, as the Hon'ble Mr. Mackenzie has observed, there has been no time to consult the Chamber of Commerce on the subject, who are more interested in such matters than any one else. It is monstrous that an amendment like this should be sprung upon us at the eleventh hour, when there has been no time to ascertain the views and opinions of those who are best able to advise us on the subject. To illustrate the serious risks into which we may fall in accepting amendments like this without due consideration, I may mention that, after receiving notice of this amendment, I consulted the Chairman of the Corporation to see whether any modification could be made in this Schedule III (*now* II), and we worked out the skeleton of a new proposal. I won't trouble the Council with the figures, but when I came into the Council room I showed them to the Hon'ble Messrs. Mackenzie and Spink, and in a moment Mr. Spink pointed out the inequitable way in which it would affect the firm in which he is interested, and other firms he knew of. This shows that we should proceed in the most cautious manner in introducing any change in a matter like this. Moreover, the amendment is quite unnecessary. If Hon'ble Members will refer to section 595A (*now* 568), sub-section (2), they will see that



power is expressly reserved to the Local Government, after due publication and consulting persons who are interested, to alter this Schedule III (*now* II), from time to time. If it appears necessary at any time to modify the classification or the rates of license-fee, it is open to the Government, with the assistance of the Corporation, to frame a proposal for the amendment of the schedule. I hope the Council will reject this amendment of the Hon'ble Member if he sees fit to press it."

The Hon'ble MR. SPINK said:—"I should like to point out that for the most part joint-stock companies are the last whose license-tax should be increased. The bulk of the share-holders of joint-stock companies are resident out of Calcutta, and the field of their operations is also out of Calcutta; therefore they do not benefit by any improvements which the Corporation may make. It is merely the fact that the offices of the Agents of these Companies are in Calcutta that makes them amenable to the payment of the license-tax. Many of them are in difficulties, and it would be a serious penalty on them to increase the amount of their license-tax to any great extent. I know that there are great inequalities in this schedule, and I think there are a great many others who can more readily bear an increase of the tax than joint-stock companies. My hon'ble friend, the mover of the amendment, has hit upon the very worst item of the schedule for an increase of taxation, and for that reason I object to this amendment very strongly."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I cannot admit that an amendment of this kind should not have been made at this stage. The Hon'ble Member comes new to this Council; he was not a member of the Select Committee, and it is not necessary to give notice of an amendment for more than two days previous to a meeting of the Council. Therefore, if any Hon'ble Member, by giving notice of an amendment according to the rules, places the Hon'ble Member in charge of the Bill in a difficult position, he has no right to complain. I am of opinion that the Hon'ble Member has done a distinct service to the Corporation and the Council by bringing this amendment forward, because he has been instrumental in eliciting an important expression of opinion from both the Hon'ble Mr. Mackenzie and the Hon'ble Mr. Spink, who agree in thinking that the schedule, as it now stands, is an iniquitous schedule. If the Hon'ble Member had not given notice of this amendment, this expression of opinion would have been lost to us. It would never have been elicited but for this amendment. Therefore, I do not think the Hon'ble Member in charge of the Bill has any right to complain of the amendment. On the contrary, he ought to be thankful for this amendment having been brought to the notice of the Council. I quite agree that this is a difficult matter, that it should be exhaustively gone into, and that it should be carefully discussed; but I cannot agree that the Chamber of Commerce and the Trades Association should be alone consulted to the exclusion of the other public bodies. The fact must be admitted that the European commercial community—I say this with all possible respect to the Hon'ble Mr. Mackenzie and the Hon'ble Mr. Spink—now that they are about to obtain a preponderance of representation in the Corporation, do not pay a proportionate amount of taxation to the Corporation. Their influence in the General Committee ought to be proportionate to the amount of taxation they pay. They pay about 2 per cent. of the municipal taxes, and they will monopolise all power in the Corporation. That does not commend itself to my notions of the fitness of things, and I am sure it will not commend itself to the sense of justice of the European commercial community. I was expecting a cordial greeting being accorded to the proposal of the Hon'ble Babu Boikanta Nath Sen from my hon'ble friends to the right (Messrs. Mackenzie and Spink), because this proposal seeks to remove the inequalities and injustice resulting from this Bill, and, therefore, this proposal ought to have commended itself to their instincts of justice. The proposal in its present form may not be accepted, but my hon'ble friends ought to have considered it in the spirit in which it was made. The Hon'ble Member in charge of the Bill admits the inequalities in the schedule. A barrister who earns Rs. 10,000 a month pays Rs. 50; a barrister who does not earn even Rs. 50 a month pays the same

amount. All taxation, says Mill, whose *dictum* you have accepted, ought to be proportionate to the sacrifice which a person or a community ought to be called upon to make. I will not detain the Council longer, but I do say that this is a matter deserving consideration, and if my hon'ble friend will hold out the hope that within a measureable distance of time the Government, of which he is the adviser, will undertake the duty of revising the schedule, I think the Hon'ble Babu Boikanta Nath Sen will withdraw his amendment."

The Hon'ble BABU BOIKANTA NATH SEN, in reply, said :—"After what has been so ably put forward by the last speaker, it is not necessary for me to add anything more than this, that I only want to explain why I picked out these two items in the schedule for increased taxation. I saw that there was injustice in the schedule from beginning to end; but I thought these two were cases in which the insufficiency of the taxation could easily be remedied, while at the same time it would bring in a perceptible increase of income to the Corporation. That is my sole object. But after what has fallen from the Hon'ble Member in charge of the Bill, and as I see that section 595A (*now* 568), sub-section (2), does afford the means of making alterations in this schedule, if the Hon'ble Member will hold out hopes that justice will be done within a reasonable distance of time, I am quite willing to withdraw my amendment."

The motion was then put and lost.

#### SCHEDULES IV AND V.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved—

- (1) that the words "body corporate" be inserted after the word "company" in rule 2, rule 3, sub-rule (5), rule 7, sub-rule (4) (*now* rule 8), and rule 8 (*now* 9), sub-rule (9), of Schedule IVA (*now* IV), and that the words "bodies corporate" be inserted after the word "companies" in rule 3, sub-rule (4), of the same schedule.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also moved that the words "body corporate" be inserted after the word "company" in clause (5) of rule 6 of Schedule IVB (*now* V).

He said :—"These are consequential amendments, rendered necessary by the acceptance of previous amendments."

The Hon'ble MR. BAKER said :—"I accept these amendments."

The motions were put together and agreed to.

#### SCHEDULE IX.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "owner or occupier of a market or bazar" be added to Part I of Schedule VIA (*now* IX).

He said :—"This schedule deals with the scavenging-tax and the persons who have to pay it. They are hackney-carriage owners, carters, &c. I wish to add 'the owner or occupier of a market or bazar,' who pays this tax now."

The Hon'ble MR. BAKER said :—"I accept the motion."

The motion was put and agreed to.

#### SCHEDULE X.

The Hon'ble BABU JATRA MOHAN SEN moved that in Schedule VII (*now* X) after the words "if the said sum is not paid into the Municipal Office at," the words "or to an officer appointed to receive the same" be inserted.

The Hon'ble MR. BAKER said :—"I accept the motion as a consequential amendment."

The motion was put and agreed to.



## SCHEDULE XV.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "where necessary" be inserted after the word "provided" in line 2 of clause (4) of rule 13 of Schedule XIII (now XV).

He said:—"Where the drain is ventilated throughout the whole length, or in such a manner that the portion beneath a building is ventilated, I think it is not necessary to have ventilators. I consulted the Superintendent of the Drainage Department before proposing this amendment. It gives a discretion, but does not take away any authority."

The Hon'ble Mr. BAKER said:—"I accept the amendment."

The motion was put and agreed to.

## SCHEDULE XVII.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, moved that in clause (b) of rule 1 of Schedule XIVA (now XVII) for the words "filled-up tank" the words "tank which has been filled up otherwise than with pure earth or equally good material" be substituted.

He said:—"It is the present practice to allow huts and masonry buildings to be built on tanks filled up with pure earth. Many buildings have been so allowed since 1889. It will be hard on the owners of tanks if they are not allowed to let them out when filled up with pure earth."

The Hon'ble Mr. BAKER said:—"Under this amendment a filled-up tank may be used as a site for building upon, although it is not considered safe to do so by the Engineer. Therefore I cannot accept the amendment."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I understand that this amendment only refers to buildings on the sites of tanks filled up with pure earth. Speaking from memory, my impression is that our bye-laws provide that, if a tank has been filled up with refuse, the site is not allowed to be built upon for a period of twenty years, but if a tank is filled up with good earth the condition of things is quite different. It is obvious that in the former case the site should not be used until the refuse is thoroughly decomposed, but if a site has been filled up with good earth you ought to be allowed to build upon it at once."

The Hon'ble Mr. BAKER, in reply, said:—"The words used in the bye-law are 'street or other refuse.' I am in the hands of the Hon'ble Mr. Buckley in this matter, and, if he thinks this may be allowed, I have no objection. The question was discussed in the Select Committee, and we came to the conclusion that the rule should stand as it is."

The Hon'ble Mr. BUCKLEY said:—"There are certain objections to building on ground recently filled up even with good earth. The present bye-law fixes twenty years as the period during which a site filled up with refuse cannot ordinarily be built upon, but with the consent of the General Committee the period may be reduced to ten years if the state of the soil after investigation be found to be fit to build upon."

The Hon'ble Mr. BOLTON said:—"The provision in the Bill prohibits building for ten years if the site is not insanitary; but if the site consists of good earth, I do not see why building should not be permitted at any time."

The Hon'ble Mr. BAKER said:—"I have to point out that the Hon'ble Babu Boikanta Nath Sen has an amendment proposing to reduce the period from ten years to two years."

The Hon'ble BABU BOIKANTA NATH SEN moved that in line 5 of clause (b) of rule 1 of Schedule XIVA (now XVII) "two years" be substituted for "ten years."

He said:—"I thought that this, coupled with the Chairman's certificate that the site is fit to be built upon, ought to be sufficient."

The Hon'ble BABU SURENDRANATH BANERJEE said :—"The two amendments stand on a different footing. Why should there be a lapse of even two years, if it is a site filled up with good earth? If there are engineering difficulties, the Engineer's Department will take care not to give their sanction."

The Hon'ble MR. BUCKLEY said :—"I do not think we should allow building within two years even if the site is of good earth. Excavations even in good soil occasionally produce fever. I recommend that the provision should stand as it is."

The Hon'ble MR. BAKER said :—"There are two conditions implied in the provision which the Hon'ble Babu Boikanta Nath Sen wants to amend,—first, that the site must have been filled up ten years previously; and, secondly, that the Chairman must give his certificate; therefore, the investigation cannot begin until ten years after the tank was filled up. The case put by the Hon'ble Raja Ranajit Sinha Bahadur, of Nashipur, refers to a site filled up with good earth. I do not wish to accept the latter amendment, but, unless the Hon'ble Mr. Buckley objects, I would accept the substitution of two years for ten years in line 5 of Clause (b) of rule 1 of Schedule XIVA (now XVII)."

The Hon'ble MR. BUCKLEY said :—"It would not be safe to reduce the period to less than five years."

The Hon'ble BABU BOIKANTA NATH SEN said :—"I must consent to modify my amendment by substituting "five years" for "two years."

The motion in the amended form was then put and agreed to.

The last motion having been carried, the Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew his motion for the amendment of Schedule XIVA (now XVII), rule 1.

The Hon'ble MR. BUCKLEY moved that in sub-rule (2) of rule 2 of Schedule XIVA (now XVII) the words "which is re-erected" be inserted after the word "building," and that the words "erection or" in the proviso to the same sub-rule be omitted.

He said :—"This is a matter which affects the height of a building. The Building Commission in their report (page 19, paragraph 56) reported in favour of having all houses—new houses as well as houses re-erected and altered—reduced to what is known as the 45° rule; in other words, the top of a house standing on one side of a street is not to intersect a plane drawn from the other side of the street at an angle of 45° with the plane of the ground, which means that the house is to be of the same height as the width of the road. In the Select Committee this recommendation of the Commission was modified, and the Bill was altered in so far that we allowed a house to be made rather higher in certain streets than the Commission recommended: we introduced this sub-rule (2) that in the case of a building in any street in existence which is less than 25 feet wide, the angle shall be 56½° and not 45°, which means that the house may be half as high again as the width of the street. The Building Commission wished to maintain the 45° rule everywhere, but the Select Committee, while it intended that the 45° rule should apply to all new houses in all streets, wished to allow existing houses in narrow streets to be re-erected up to their existing height or up the 56½° rule whichever was less. But the sub-rule (2) and the proviso as they are worded have this effect: they limit houses between the 45° and the 56½° angle to their present height, but they allow new houses to be built to 56½°. If a man has a house intermediate between the two, he can re-erect or alter it up to the present height; but the man who constructs an entirely new house would, as the rule is worded, be able to build it up to the 56½° height. That was not intended either by the Commission or



by the Select Committee, and the wording, as I now propose to alter it, will allow a building on an entirely new site only to be built up to the 45° rule."

The motion was put and agreed to.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, by leave of the Council, withdrew the motion, standing in his name, that the words "and also so far as it will abut or abuts upon the narrower of such streets to a distance of 40 feet from the wider street" in sub-rule (4) of rule 2 of Schedule XIVA (*now* XVII) be omitted.

The Hon'ble BABU SURENDRANATH BANERJEE moved that to rule 6 of Schedule XIVA (*now* XVII), the following be added:—

"(2) Subject to the approval of the General Committee, a verandah may be erected upon the space between such line and alignment."

He said:—"As the verandah would be left open, I do not think there should be any objection to this amendment."

The Hon'ble MR. BAKER said:—"I am entirely in favour of this amendment, provided that the words 'an open verandah' be substituted for 'a verandah.'"

The motion in this amended form was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that clauses (b) and (d) of rule 13 of Schedule XIVA (*now* XVII) be omitted.

He said:—"It must not be supposed that I consider this to be an unimportant matter, but I think a matter like this should be the subject of bye-laws. In allowing the Chairman to fix the proportions of the mortar to be used there is the danger of his delegating the power to a subordinate. Neither the Chairman nor the Engineer will see these rules carried out, but some subordinate; and the proportions of materials in the mortar will depend sometimes on the amount paid to him. There ought to be bye-laws which lay down those proportions and fix the thickness of the walls. At present these matters are regulated by bye-laws. I object entirely to open a door to the blackmailing of poor people."

The Hon'ble MR. BUCKLEY said:—"The question of fixing the proportion of materials forming the mortar [clause (b)] is not of great importance. The Chairman will prescribe generally what the nature of the mortar is to be; there will be two classes of buildings, and the general specification will be followed. But clause (d) is important, and the Corporation have at present most elaborate rules with reference to the thickness of walls at various heights, and in Bombay—and certainly in London—they are elaborately prescribed. I think clause (d) should certainly remain."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"If these things are made the subject of bye-laws, the Chairman will have nothing to do with the matter. They are regulated by bye-laws at the present moment, and in Bombay this is the same; then why should it not be done here?"

The motion was then put and lost.

The Hon'ble MR. BUCKLEY moved—

- (1) that to the sub-heading "*Part IV.—Dwelling-houses,*" above rule 17 in Schedule XIVA (*now* XVII), the words "*and other domestic buildings*" be added;

- (2) that in rule 20 of Schedule XIVA (*now* XVII) the words "domestic building" be substituted for the words "dwelling-house;"
- (3) that in sub-rule (1) of rule 22 of Schedule XIVA (*now* XVII) the words "domestic building" be substituted for the words "dwelling-house," and that throughout the said rule 22 the word "building" be substituted for the word "house;"
- (4) that in rule 23 of Schedule XIVA (*now* XVII) the words "domestic building" be substituted for the words "dwelling-house" in both places in which they occur, and that the word "building" be substituted for the word "house;"
- (5) that the following amendments be made in rule 24 of Schedule XIVA (*now* XVII), namely:—
  - (1) in sub-rule (1) substitute the words "domestic building" for the words "dwelling-house;"
  - (2) in sub-rule (1) substitute the words "the buildings" for the words "the house and such building;" and
  - (3) in sub-rules (1) and (2) substitute the words "the said domestic building" for the words "the house."
- (6) that in rule 26 of Schedule XIVA (*now* XVII) the words "domestic building" be substituted for the words "dwelling-house;"
- (7) that the following clause be inserted in section 3, namely:—

"domestic building" includes a dwelling-house or any other masonry building which is neither a "building of the warehouse class" nor a "public building" as defined in this section.

He said:—"These matters are important in one sense and in another sense they are merely verbal amendments. The Calcutta Building Commission in their report, paragraph 117, made certain very important proposals about the space to be allotted at the back and sides of a building. In their report they used the word 'building' in some places and 'house' in other places, meaning that the stipulations with regard to space should apply to all classes of buildings and houses, and in their draft Bill, from which the sections in question are taken [section 42, sub-section (2)], the Building Commission used the word 'house;' so that the sections to which I am referring were not restricted in any way by the Calcutta Building Commission, and in that sense these clauses were passed and approved by the Select Committee. But when the sections of the draft Bill of the Building Commission were actually incorporated into the draft Bill in Select Committee, we did not use the word 'house,' but the expression 'dwelling-house.' The word 'house' has no technical meaning: the expression 'dwelling-house' has a technical meaning in the Bill. It has thus come about that the Bill before the Council conveys a different meaning from the Bill drafted by the Commission, and a different meaning to that which the Select Committee intended to give it. The difference is very material. The expression 'dwelling-house' only means a house in which people live, and it does not include a stable, or a shop, or a cook-house or such other buildings. The space which is specially provided at the back of all houses is intended to be a continuous open space to give a draught of air along the back of the row of houses, and it is necessary that this open space should be continuous. It is necessary therefore, and it was intended, that it should be at the back of all houses and not only at the back of 'dwelling-houses.' As the Bill stands, if there were a shop in a line of buildings it would not be obligatory to have a space at the back of it, and the continuity of the open space would be broken. The same remark applies, to a certain extent, to the spaces which are prescribed in the Bill at the sides of houses. The amendments which I now propose introduce the word 'domestic building': this is not quite as wide a term as 'house,' but it will include all houses which should have the prescribed spaces at the back or sides. The amendment will substantially give effect to the intentions of the Building Commission and the Select Committee."



The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am prepared to accept these amendments, provided the Hon'ble Member excludes places of private worship. I understand he is prepared to make that reservation on behalf of Hindu temples, and, if so, I am prepared to accept these amendments."

The Hon'ble MR. BAKER said:—"If the Hon'ble Mr. Buckley has no objection, I will raise none to the exclusion of private places of worship from the category of domestic buildings. I myself do not favour their exclusion, for I am not sure that these private places of worship have any special claim to exemption from the rules in this schedule."

The Hon'ble MR. BUCKLEY, in reply, said:—"My view is that if a person is living in a place which is said to be a place of private worship, it ought not to be excluded; but in view of the strong opposition of the Hon'ble Babu Surendranath Banerjee, I will not object to exclude places of private worship."

The Hon'ble MR. BAKER said:—"In that case I will move that the following clause be inserted in section 3:—

"domestic building" includes a dwelling-house and any other masonry building which is neither a "building of the warehouse class" nor a "public building," as defined in this section, nor "a place exclusively used for private worship.""

The last motion in the amended form was put and agreed to.

The preceding motions for the amendment of Schedule XIVA (*now* XVII), Part IV, standing in the name of the Hon'ble Mr. Buckley were then put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "enclosed" be inserted between the word "and" and the word "verandahs" in line 4 of rule 21 of Schedule XIVA (*now* XVII).

He said:—"The space occupied by open verandahs should not be taken into account, and, if there are open verandahs, allowance should be made for the space occupied by the courtyard."

The Hon'ble MR. BUCKLEY said:—"I do not think this amendment can be accepted. In many ways, as I said before, the proposals of the Calcutta Building Commission have been minimised in Select Committee. We have given way, here and there, little by little, on representations made by members of the Corporation, who wish to whittle away as much as possible the recommendations of the Calcutta Building Commission, to which so much trouble and thought were given. The open spaces in court-yards are very much smaller than the Commission would allow, and I am very unwilling to make any further concession. I may say that the rule as it stands at present in the bye-laws of the Corporation is one-fourth of the aggregate floor area of all the rooms abutting the court-yard, and that area probably does not include verandahs."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"I quite admit the concessions which have been made, but they do not come to the full extent of our demands. These are new regulations altogether, and they have created a considerable degree of alarm. We ought, therefore, to proceed with great caution. A few more concessions will allay public excitement, and in that hope and confidence I suggested a few amendments in Select Committee."

The motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the words "or on the sides" be inserted after the word "rear" in line 3 of rule 22 of Schedule XIVA (*now* XVII).

He said:—"This open space, I suggest, should not only be in the rear, but, subject to the discretion of the Chairman, such open spaces might be left on the

sides. There is a danger in this provision which my hon'ble friends do not realise. If you leave an open space in the rear, sometimes it may form a *cul de sac*, and it will be difficult for conservancy carts to approach these open spaces; whereas, if you have spaces on the sides subject to the discretion of the Chairman, you may secure ventilation much more effectively than by the uniform rule that in every case the open space must be in the rear. I am afraid the Hon'ble Mr. Buckley and the Hon'ble Member in charge of the Bill are too inexorably wedded to English ideas to depart from them. Open spaces in England must be at the back: we all know that. But I submit there would be a distinct advantage if discretion was given to the Chairman to modify this rule by allowing open spaces at the sides in preference to open spaces in the rear."

The Hon'ble Mr. BUCKLEY said:—"I object most strongly. This proposal is entirely opposed to the theory of the open spaces at the back. The Building Commission went very fully into the matter. The idea is to let the wind in in a line at the back. If you allow open spaces to be either at the back or at the sides, you prevent the free current of air along the back of the houses, and obstruct ventilation; you may entirely shut out all air."

The Motion was then put and lost.

The Hon'ble BABU SURENDRANATH BANERJEE moved that the word "eight" be substituted for the word "ten" in line 5 of sub-rule (2) of rule 22 of Schedule XIVA (*now XVII*).

He said:—"Under the existing bye-laws you are obliged to keep 4 feet open space at the rear. This rule provides for 10 feet; I suggest 8 feet: I give double the extent of the open space provided under the present law. The Hon'ble Member in charge of the Bill was at one time prepared to accept this amendment coupled with a condition which we were not able to accept. You provide for ventilation in such a variety of ways that if you make this small concession you do not lose anything."

The Hon'ble Mr. BUCKLEY said:—"We have conceded and conceded and conceded; and yet the Hon'ble Member is not satisfied. It is perfectly true that the Hon'ble Member in charge of the Bill did at one time agree to make this concession, subject to a certain condition; but, not having agreed to make a concession on his side, the hon'ble mover of the amendment wants a concession to be made on our part. There is a rule that no one can be allowed to build on more than two-thirds of the area of the land, and that, in most cases, makes the open space 10 feet or more. A space of 10 feet is laid down in the London Building Act, and it is a reasonable figure. The sections drafted originally by the Commission were most complicated and intricate. I am quite satisfied that 10 feet is a reasonable minimum space. It is the minimum in London, where you do not need so much ventilation as you do in a tropical climate; and we have conceded quite as much as we should have done."

The Hon'ble Mr. BAKER said:—"The rule in London is not only 10 feet but  $63\frac{1}{2}$ , therefore the height of a building cannot be more than twice the width of the space at the back. That affects the position very much. In the Select Committee, I offered to agree to 8 feet, if that was accepted as a final settlement of the whole question. The Hon'ble Member refused to accept this, and the suggestion therefore dropped."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"The bargain was that we should not raise this question in Council."

The Hon'ble Mr. BAKER said:—"The proposal was offered as a settlement of the whole question."

The Hon'ble BABU SURENDRANATH BANERJEE, in reply, said:—"But my recollection is that we were not to raise this question and possibly other questions in Council, and if we consented we were to have a minimum of 8 feet. I do



think, as representatives of the rate-payers, we ought to have the liberty to raise whatever questions we think fit connected with the details of the Bill. Now with regard to the London minimum, the two things are distinctly different. In London, houses have not any court-yard at all; in most Indian houses we have a court-yard. The arrangements of Indian families require two separate apartments, one for the males, the other for the females, and necessarily there would be a courtyard and this open space between. You insist upon the London rule despite the fact that we have there open spaces which the London rule does not require and does not provide for. Often there are two courtyards, and therefore you ought not to need a minimum of 10 feet. That is the logical position, and I think I have a right to ask the Council to accept that position. We ought not to stick to the London rule bearing in mind the totally different circumstances of houses in Calcutta and in London."

The motion was then put and lost.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, moved—

- (1) That in line 5 of clause (a) of rule 27 of Schedule XIVA (*now* XVII), the word "six" be substituted for the word "twenty."
- (2) That clause (b) of rule 27 of Schedule XIVA (*now* XVII) be omitted.

He said:—"Rule 43 lays down that no portion of a hut shall be placed within 6 feet of a masonry building, but under rule 27 the owner of the land in a bustee on which a dwelling-house is to be erected must give up all land which may be required so as to have a space of 20 feet in front of and along the entire length of the boundary line of the premises. It appears to me that these two provisions are inconsistent, and that it will be very hard if 20 feet space is to be left in front of a building. I therefore move these two amendments."

The Hon'ble MR. BAKER said:—"There is no inconsistency. Under rule 43 there is a provision that no portion of a hut shall be placed within 6 feet of a masonry building. It contemplates the previous existence of a masonry building, and in that case you cannot erect a hut within 6 feet of that building. But clause 27 provides for the case of a dwelling-house newly constructed in a bustee. We have provided by section 347 (*now* 356), clause (2), that the width of proposed streets shall not be less than 40 feet. Now the erection of a masonry house is the first step in converting bustee land into ordinary land, and every house constructed in that way must abut on a street and the street must be 40 feet wide; therefore you must provide along the length of the front of the premises of each masonry building erected in a bustee an open space of 20 feet, so that when a house is built on the opposite side and 20 feet is in the same way left in front of the entire length of the premises of such house, you will have a complete street of 40 feet. Unless you have such a rule, the rule that every new street must be 40 feet wide will be totally inoperative."

The first motion was then put and lost.

The second motion was then, by leave of the Council, withdrawn.

The Hon'ble MR. BUCKLEY moved that the figures "18" in rule 29 of Schedule XIVA (*now* XVII) be omitted.

He said:—"This is a clerical mistake. Rule 18 is not applicable to warehouses, and ought not to have been referred to in this section."

The motion was put and agreed to.

The Hon'ble MR. BUCKLEY also moved that in rule 29 of Schedule XIVA (*now* XVII), the words "domestic buildings" be substituted for the words "dwelling-houses," and that the words "which are not situated in a locality which has been set apart, by direction under section 365 (*now* 367), for the erection of buildings of the warehouse class" be added after the words "warehouse class."

He said:—The Hon'ble Babu Surendranath Banerjee was complaining that we are so very uncompromising that we do not make concessions. In this amendment I am offering him a concession. Rule 29 provides that the provisions of rules 22, 24 and 27 shall have effect in the case of buildings of the warehouse class. The effect of this would be that in the case of all warehouses it would be necessary to leave the spaces at the rear and sides which are defined in those rules. The amendment which I propose modifies this and makes the rule less strict. The effect of the amendment will be thus: that where a building of the warehouse class is situated in contact with a domestic building, that warehouse will have to be provided with the space at the back which is necessary for ventilation; but, if the warehouse is situated in a part of the town deliberately set aside for warehouses, the space will not be obligatory. In that case a space at the back is not so necessary as when a warehouse is erected in an inhabited part of the town."

The motion was put and agreed to.

The Hon'ble MR. BUCKLEY moved that in the second line of rule 50 of Schedule XIVA (*now* XVII) the words "any building which was erected before the commencement of this Act" be substituted for the words "a building," and that clauses (a) and (b) of the said rule be omitted.

He said:—"This is very little more than a verbal alteration. Rule 50 refers to the case of applying rule 2 where you are altering a building. The amendment proposes that instead of the word "building" the words "any building erected before the commencement of this Act" should be used. The effect of the rule will be that, in the case of any building erected before the commencement of this Act, the rule of  $56\frac{1}{2}^{\circ}$  shall apply instead of the rule of  $45^{\circ}$ . That is the intention of the rule as it stands, reading it with the sub-rule (a)."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I understand that the object of the amendment is merely to more clearly express the law, and that alterations to the building will come within the  $56\frac{1}{2}^{\circ}$  rule."

The motion was put and agreed to.

The Hon'ble BABU SURENDRANATH BANERJEE moved that clauses (a), (b), (c) and (d) of rule 52 of Schedule XIVA (*now* XVII) be omitted.

He said:—"This is a somewhat important matter, and I think we have a right to some sort of compromise. Rules 31 to 36 prescribe important rules applying to the erection of buildings; rules 47 to 49 apply to the erection of huts. I suggested that these rules ought not to apply to necessary alterations. That was accepted, but certain reservations were made, and they are stated in this rule. I suggest that the reservations contained in clauses (a) to (d) be omitted. I think that the construction of a roof or a party-wall is a necessary matter, or any repairs which involve the reconstruction of a masonry wall, &c., the closing of an opening in a wall, or the construction of an internal wall or partition. I ask that this amendment be accepted in view of the compromise which has been come to."

After consultation with the Hon'ble MR. BUCKLEY, the Hon'ble BABU SURENDRANATH BANERJEE moved, in lieu of the above amendment, that the



following amendments be made in Schedule XIVA (*now* XVII), rule 52, namely :—

- (1) in clause (a), omit the words “or re-erection”;
- (2) in clause (b), omit the words “a ceiling”;
- (3) in clause (c), for the word “opening” substitute the words “door or window.”

The Hon'ble MR. BAKER said :—“I accept the amendment as modified.”

The last motion was then put and agreed to.

#### SCHEDULES XIX AND XX.

The Hon'ble BABU SURENDRANATH BANERJEE also moved—

- (1) that in Schedule XVIII (*now* XIX) a column be added for the heading “Where born” after the column headed “When born;”
- (2) that in Schedule XIX (*now* XX) a column be added for the heading “Name of medical attendant, if any, during last illness” after column 8.

He said :—“This is the present practice. The object is to ascertain where the birth took place.”

The Hon'ble MR. BAKER said :—“I accept the amendment.”

The motions were put together and agreed to.

#### SECTION 3.

The Hon'ble MR. BAKER moved that the last eight words of clause (5) of section 3 be omitted.

He said :—“This clause contains the definition of a bustee, and the last eight words of the clause are ‘and are not separately numbered in the assessment-book.’ Those words do not occur in the existing law, and the effect of their insertion will be to enable an unscrupulous owner of a bustee to defeat the law. Suppose a man has 27 cottahs of bustee land with huts on them, the whole being registered in one name and bearing one number. Suppose he collusively subdivides the 27 cottahs into three plots and gets two of the plots registered in the name of two of his tenants. Then the whole of the 27 cottahs ceases to be bustee land.”

The Hon'ble BABU SURENDRANATH BANERJEE said :—“I agree with my hon'ble friend. But this is the definition of the Building Commission, whose wisdom has been our wisdom in a variety of matters.”

The motion was put and agreed to.

The Hon'ble MR. BAKER also moved that in clause (22) of section 3 the word “material” be inserted between the word “no” and the word “portion.”

He said :—“The Chairman of the Corporation pointed out to me that the effect of not inserting the word ‘material’ will be that if a man inserts half a dozen bricks above the plinth in any corner of a hut, it will no longer be a hut. It is quite clear that the word ‘material’ should be inserted.”

The motion was put and agreed to.

#### RE-NUMBERING OF SECTIONS OF BILL.

The Hon'ble MR. BAKER moved that the Secretary be directed to re-number in consecutive order the Chapters, Schedules and clauses of the Bill, and to make corresponding alterations in all cross-references thereto.

He said:—"That is a purely formal motion. The numbering of the Bill remains as we settled it in Select Committee, as we thought it should be more convenient for the majority of the Council not to attempt to re-number the sections of the Bill until the clauses of the Bill are settled by the Council; but it was never intended that the Bill should remain in its present form. It was always contemplated that consecutive numbers would be given all through the Bill, and that will now be done."

The motion was put and agreed to.

The Council was then adjourned to Wednesday, the 27th September, 1899.

CALCUTTA;  
The 16th January, 1900. }

F. G. WIGLEY,  
Assistant Secretary to the Govt. of Bengal,  
Legislative Dept.



*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,  
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

THE Council met in the Council Chamber on Wednesday, the 27th September, 1899.

**Present:**

- The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal,  
*presiding.*  
The Hon'ble MR. W. B. OLDHAM, C.I.E.  
The Hon'ble MR. R. B. BUCKLEY.  
The Hon'ble MR. C. W. BOLTON, C.S.I.  
The Hon'ble MR. E. N. BAKER.  
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.  
The Hon'ble MR. C. E. BUCKLAND, C.I.E.  
The Hon'ble MR. F. F. HANDLEY.  
The Hon'ble MR. F. A. SLACK.  
The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.  
The Hon'ble BABU JATRA MOHAN SEN.  
The Hon'ble MR. T. W. SPINK.  
The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR.  
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.  
The Hon'ble MR. D. F. MACKENZIE.  
The Hon'ble MR. J. G. APCAR.  
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.B.S.E.  
The Hon'ble BABU BOIKANTA NATH SEN.  
The Hon'ble BABU SURENDRANATH BANERJEE.

## THE DISASTER AT DARJEELING.

The Hon'ble THE PRESIDENT said:—"Hon'ble Members have heard with deep concern of the terrible disaster which has befallen Darjeeling. The loss of life has proved to be far more grave than it was at first believed, and I cannot put the tale of human lives lost at less than about 400. I am sure that the whole Council will join with me in the most heartfelt sympathy for the families of the victims of this calamity."

## THE CALCUTTA MUNICIPAL BILL.

The Hon'ble MR. BAKER moved that the Calcutta Municipal Bill, as amended by the Council, be passed.

He said:—"I do not think the Council will expect me, at this stage, to enter upon a lengthy vindication of the Bill. Some of my hon'ble friends opposite propose, I understand, to take this opportunity of expressing once more their disapproval of the measure; but for my part I regard the motion as almost entirely formal. The Bill has been scrutinized and examined with the greatest minuteness. Its guiding principles were settled after the full and interesting debate in March and April, 1898, and were revised after the debate of last month. Its details were criticized and reviewed with almost unprecedented elaboration by the Corporation itself, and by the numerous public bodies and associations to whom it was referred. In the Select Committee, whose sittings extended over more than five months, it was again subjected to a most searching examination, with the result that large sections of it were wholly recast, nearly 1,000 modifications, great and small, having been introduced. And finally for the past three weeks this Council has been engaged almost continuously in considering an army of proposed amendments, nearly 600 strong, sifting out the wise from the unwise and incorporating all suggestions of value. To urge now that we should not pass the measure on which so much pains and thought have been expended, and that we should deliberately throw away the fruit of our long-continued labours, is surely to stultify ourselves completely. It must be obvious to all that such a course is not to be thought of.

"And, Sir, I think I may fairly maintain that the Bill as it now emerges from the final consideration of the Council is a better Bill than that which was originally introduced—a stronger and more workable measure. The cardinal principle of the original Bill was the creation of three co-ordinate authorities,—the Corporation, the General Committee and the Chairman,—and the distribution between them of the functions most appropriate to each, each of them being made independent within its own sphere. This principle we have endeavoured to preserve intact. But, in addition to this, we have incorporated a number of improvements of much practical value. In the first place, we have been able to get rid of the incongruity between the composition of the Corporation and that of the General Committee, which was a prominent feature of the original Bill. This incongruity attracted more unfavourable criticism than perhaps any other provision of the first scheme; and I am at liberty to confess that I personally regarded it from the first with grave misgiving, as the fatal flaw in the girder which might at any moment bring the whole structure about our ears. Then, we have made provision for the adequate representation, relatively, of those great commercial interests which have literally created modern Calcutta, but which, when left to the chances of election, have found themselves hopelessly out-numbered. Again, we have devised a scheme of central control, which is as simple, ready and effective as we can make it, and under which the Government will no longer be subject to the reproach that it is responsible but powerless. On the other hand, we have restored to the Corporation an effective power of control in matters of finance—a power which under the first draft of the Bill they possessed only in name. We have also secured to them the power of subordinate legislation, of which it had been proposed to deprive them altogether. Turning from matters of procedure to matters of substance, we have endeavoured to provide Calcutta with an effective building law, based on the most approved modern models, in lieu of the confessedly imperfect and inoperative

The sections of the Bill having, under the direction of the Council, been re-numbered, the present number of each section is inserted in brackets, wherever the new numbering is altered.



regulations which have so conspicuously failed to control the expansion of the city during the past ten years. And by the legal device, for which the Council are indebted to Mr. Wigley, of placing the bulk of the detailed rules in a statutory schedule which can be amended from time to time, we have secured the elasticity which is so essential when we are regulating matters which touch the daily lives of the people. In respect of the water-supply, of conservancy, of drainage, of the registration of births and deaths, and of a multitude of minor but important matters of municipal administration, an endeavour has been made to secure a substantial advance based on experience both here and elsewhere, while at the same time avoiding innovations likely to excite reasonable popular apprehension. How far we have been successful time alone can tell; but I can conscientiously affirm that we have done our best to give heed both to the lessons of experience and to the admonitions of all reasonable critics, and that, alike in the Select Committee and in this Council, it has been our consistent endeavour to hold the balance true.

“It is significant, and also a little disappointing, that, of the multitude of amendments which it has been our duty to consider, so large a proportion has been devoted to the merely constitutional portions of the Bill, and so few, comparatively speaking, to those which seek to make provision for the public health, safety and convenience. And in this fact, whether we regret it or not, is to be sought the answer to the protest of the Hon’ble Surendranath Banerjee when he complained that so many of his amendments had been rejected by the Council. It is not to be supposed that the Government of Bengal, which is responsible for the administration both of the Province and of the Calcutta Municipality, would set its hand to a measure of legislation such as this without first making up its mind as to the evils to be remedied and the general outlines of the remedy to be applied. Speaking for myself, Sir, I hold the view that, whatever the theory may be, from the very necessity of the case, this Council is, and must be, a subordinate Legislature. It can have no authority to enact any measure the broad principles of which have not been endorsed and accepted by the Government of the day, with which all ultimate responsibility rests. When the principles of any measure have after due consideration received the sanction of the executive Government, the function of the Council is confined to settling the details. And it is an idle task for any Member to endeavour, by any application of the forms of legislation, to defeat those principles or render them nugatory. I feel sure that the Hon’ble Members who have filled the notice-paper with sheaves of amendments, the avowed object of which was to uproot the very foundations of this Bill, never in their own hearts felt any doubt as to what must be their inevitable fate. In so far as they addressed themselves not to the structure of the municipal machine, but to the work which the machine was required to do, the reception of their suggestions and amendments has been very different. It is apparent to all who have followed the proceedings of this Council during the last three weeks that every amendment dealing with the departmental provisions of the Bill has received open-minded and impartial consideration at the hands of Government, and that a substantial proportion of them has been accepted and embodied in the new law. That, Sir, is, I conceive, in strict accordance with the true functions of this Council.

“It has been asserted that the present measure is destructive of the true principles of local self-government, and that, if it is enacted, nothing will remain of local self-government but the name. You, Sir, in your addresses, on the 14th November, 1898, and again on the 7th August last, have exposed the misconception on which this charge is based. You have shown that what we are now doing is merely to change the form of self-government, and to replace a system which experience has proved to be defective by another more adapted to the needs of the time. I should like to go even a little further than that; for I maintain that the change which we are now effecting is itself a real and striking recognition of the depth to which the principles of local self-government have struck their roots in this town. So long as that system was in its infancy, it may have been right and politic to encourage its development by fair words, by indulgent blindness to its early failures and shortcomings,

and by cordial and even exaggerated commendation of its successes. But, Sir, local self-government has now outgrown the need for treatment which is only appropriate to the period of pupilage. The stage has passed when it could be rightly regarded as a youth of promise, and it must now be content to be judged as a man is judged—by its performance. An instructive parallel to the process through which self-government in Calcutta is now passing will be found in the history of the great Volunteer movement in England. When the Volunteer Army was first started shortly after the Crimean War, and for many years afterwards, it was treated as a desirable game or plaything, to be encouraged and belauded, but not to be regarded as a serious factor in the national defences. For many years the official utterances regarding the Volunteers were uniformly laudatory and even fulsome; their obvious defects were ignored, and flagrant breaches of military discipline were winked at which would have instantly led to severe consequences had they occurred in the regular army. All this has now changed. By steady perseverance, the Volunteers have at length raised themselves to a strength and to a pitch of efficiency which have caused them to be recognized as a valuable and integral component part of the defences of the empire. And now the attitude of the heads of the Army is far different from that of earlier years. They treat the Volunteers as men, and not as children. They do not scruple to point out their defects and shortcomings; they insist on a strict standard of discipline; and they do not hesitate to prune away any offending members whose imperfections impair the efficiency of the whole force. The reasons for this attitude are perfectly well understood in England, and public opinion thoroughly appreciates and approves the motives of the change. That, Sir, is something very like the stage to which the system of local self-government has now grown in Calcutta. And with what justice, reason or consistency can Government be charged with hostility because in the 23rd year of the life of the Calcutta Corporation it now seeks to measure its work by the standards of manhood, and not by the standards of youth?

“One word in conclusion. I trust I shall not be regarded as going beyond my province if I venture to bring to the notice of the Council the invaluable services which it has received in respect of this measure from our Secretary, Mr. Wigley. The labour devolving upon him in the various stages of the Bill has been enormous and incessant, and I think every Member of the Council, and especially those who were also Members of the Select Committee, will agree with me that his duties were uniformly discharged with the utmost ability, courtesy and patience.

“With these words, Sir, I beg to commend to the Council the motion that the Bill as amended be now passed.”

The Hon'ble MR. APCAR said:—“My opinion is so strongly opposed to the Bill that is about to become law that I cannot allow this opportunity to pass without entering my final protest against it.

“I am entirely in favour of securing every sanitary precaution for the health and well-being of the city. At this stage, I would refrain from offering any remarks in respect of the incidence of taxation and the general details of the Bill. But I feel constrained to raise my voice against the methods that have been employed in pressing on this measure, and against the revolutionary changes that have been effected in the constitution of the Corporation. Without investigation or enquiry, and, in this, contrary to all precedent; on statements that cannot stand the test of examination and cannot be justified in fact; without a hearing being granted to those who have been placed under the shadow of grave and indiscriminating charges; with no regard for the past history of the question and with no consideration for the policy of previous administrations; without practical knowledge of the subject on the part of those responsible for the measure; in supersession of concurrent official declarations of the highest authority, this Bill has been introduced, has been passed through its various stages, and this Council are called upon to-day to finally affirm it.

“The work of forty years has been undone. Self-government that was intended, in all sincerity, to be real and genuine in its operation, is to be



replaced by self-government in a form that is only a mask for official absolutism.

"Sir, laws depend as much on the pipes through which they pass, as on the fountain from which they flow, and here my objection comes with added force when the Government is subverting a policy which was foreshadowed 60 years ago, and for nigh upon 40 years has been upheld and given effect to, by successive rulers of this Province, supported by successive Viceroys, and always with the assent of the Home Government, under both Conservative and Liberal Administrations.

"The proceedings leading up to and in connection with this measure have been of so unusual a character—so blindly persistent—that I am led to express the wonder that I feel whether you, Sir, and the official Members who support you in this Council, are conscious that you have been engaged in sitting in judgment, not on the instruments of their policy, but on your predecessors in office; that you, with one voice—and when in this Council you do agree, your unanimity is truly wonderful—have been condemning, not those upon whom duties have been imposed, but those who have been responsible for, and have passed, the laws under which the city has been administered; that you are stigmatising the past rulers and administrators as having been improvident and without foresight; as having been unable to appreciate facts then existing and incapable of judging as to what was right to be done; in a word, as having failed in every particular on which the title of wise and statesman-like government rests? And to such a degree has your condemnation proceeded, so undeniably wrong and absolutely mistaken do you wish to proclaim your predecessors to have been, and so evident and palpable you desire to suggest is the remedy to be applied, that you have, without any semblance of an enquiry or investigation, determined what form the new constitution shall take. Again, I say, let the Council mark! The sweeping condemnation on past administrators, and on past Members of the Legislature, attaches, not to one Lieutenant-Governor, not to a single administration, but to the whole succession of them, one after the other. To what can this revolution in the views of the Government and in the votes given in this Legislature be attributed? We know that it sometimes happens that a wave of sympathy and sentiment overpowers the councils of Governments, and sweeps away, in its course, long-established laws. We have seen this occur where democratic influences have force, and public opinion is a determining power. But conditions such as these have no existence here, and in this question there has been no cause such as I have indicated.

"At the inception of this measure there was apparent an unconcealed antipathy, which can be traced to an earlier period, towards those who have borne the drudgery of the work of this city, who, as has been truly said, have not usurped power, but who, finding others abandoning it, have laboured in the interest of the city, and in carrying out their duties have done their work, as my hon'ble friends, Mr. Oldham and the Member in charge of the Bill have described, in emphatic contradiction to all that had been said before, faithfully, honestly, and with singular ability. A very noticeable circumstance during the progress of this measure is the change in the attitude of those who have become responsible in the Council for this measure, in the later phases of the proceedings, towards a certain class of the citizens of Calcutta. I am not here as a champion of the Hindus. They need no champion outside their own community in the presence of the non official Members of the Council who represent them. But as a Member of this Legislature, and now engaged in dealing with this Bill which is a subject of recognised public importance, I may be permitted to express my satisfaction with the change in this connection. With this there nevertheless has been no relaxation in the strenuous efforts to destroy every trace of the constitution that made self-government by the Corporation of Calcutta a reality, and gave them open control of the administration.

"So far has this policy of restriction been carried that the Chairman, in his executive functions, is without supervision or control. However much the public may desire it, they are left absolutely without power of obtaining

any information of what he may be doing, or how his subordinates may be conducting themselves. The supervision and control that was found to be so necessary, and was a salutary check on the vagaries of the Executive, is completely withdrawn, and not even the opportunity of criticism is left. The Chairman of the Corporation, whom in the past we have known not merely as an advocate, but as the active protector of his executive subordinates, is in the future to be the sole arbiter of our fates, which are now to be confided to such persons as the Executive of the Corporation of Calcutta. Again, the public are to be left at the mercy of the General Committee in respect of such functions as have been allotted to that body. That body need give such information only as they may be pleased to vouchsafe, and they can withhold whatever they in their unfettered discretion may choose to withhold. It is perfectly true that the General Committee is formed out of the Commissioners of the Corporation, but it is no less a fact that that Committee has been formed into an independent authority, working with closed doors and under the presidency of the Head of the Executive, and in their body the representatives of the rate-payers, through whom the grievances of the public have hitherto found vent, under the new law, will be in a helpless and standing minority. What a contrast is this to the conditions under which the Corporation has worked for 36 years past!

"The Corporation through all these years have enjoyed full and effective control over the administration, and have earned the encomiums of the statesmen who have ruled under successive administrations. They have, by working in the light of day, taken the public into their confidence, and have submitted themselves to their judgment. When there has been a grievance to be redressed, a wrong to be complained of, any suggestion to be made in the interest of the public, any Commissioner has hitherto had the right of audience in the General Committee. In the new law, the Government have refused to concede the right to the Corporation of even a *précis* of the proceedings of the General Committee, so that we now have the prospect of the Municipal Executive, a body whom we have found ourselves unable to trust in the past, completely shut off from any supervision and criticism by the general body of Commissioners: the General Committee, a body of 12 persons who will be entrusted with large and independent powers—nearly all of which, however, they can delegate to the Chairman if they so wish, and attend their meetings simply to endorse the Chairman's proceedings and pocket their fees for the work—and yet will not be responsible to the general body of Commissioners. They will deal with large sums of money, and will be working with closed doors, yet need give only such information as they may choose to give to the general body of Commissioners, that is, to the public, and then at a meeting under the presidency of the Head of the Executive, who is also their own *ex officio* Chairman, and as such, and naturally so, a partisan in any question affecting their action, to control all discussions. In all these re-arrangements, the public may well enquire, where will the Corporation, that is, the general body of Commissioners, come in? What will be their functions, and what will be their share in the scheme that is called self-government? Their functions were rightly gauged by those who originally framed the Bill, for they allowed them the privilege of meeting only four times in the year. The general body is to be the elective body, to elect 8 members of the General Committee, 4 being elected by half their number and 4 by the other half, and Government nominating the remaining 4 members. They may consider the annual budget, they may also consider the annual administration report. Each of these two functions occurs once annually. And all contracts involving an expenditure of more than Rs. 10,000 must receive their sanction. There will be some such contracts in the near future, but the necessity for them will not continue for any length of time, nor will there be many of such at any time, even if the necessity for them does continue for a long time. They cannot be regarded as likely to give permanent occupation to the general body. To discuss the annual report will require intimate knowledge of the subject, which must die out soon among the general body. To discuss the budget with intelligence will also require intimate knowledge, and it is a subject in which not many will be qualified to enter. If interest is kept up in these budget discussions by the general body, opportunity will recur periodically,



but only once in the year. After the passing of the budget the general body will exist with suspended animation until the next annual meeting. Is this scheme seriously to be represented as self-government? If the Government desire to make of the Municipality a Government department, they can easily do so. If they wish to form a small Municipal Board, let that system be adopted. But why devise the elaborate machinery now adopted for such a very little effect? If the European community, for whose gratification this measure is ostensibly designed, continue as apathetic and indifferent in the future as they have been in the past, the law may continue in force for some time until the mischiefs of the system, in spite of all the provisions that exist in the law to cover them, are disclosed. And not the least among the mischiefs that I fear is financial bankruptcy. If, however, the Europeans begin to take interest in the municipal administration, they will soon wake up to the consciousness of a system carried on under cover of the name of self-government, which in effect is nothing of the sort. They will not consent to continue as nonentities in such a form of administration, and in these circumstances it is inevitable that there will be an outcry from them for a change at no distant date, when the fate of the law will be sealed.

"Your Honour has referred to the advantage of the Head of the Executive being in the chair of this Legislature, with reference to the scheme under which, in the Corporation, the Head of the Executive is to be in the chair, both of the General Committee and of the Corporation. I venture to point out that there is a great difference between deliberative bodies where executive functions have to be discussed and where only laws have to be considered. I have myself, I may say, no desire to commit such a solecism as to question the rulings from the chair; but I may be permitted to remind Your Honour of the many amendments in this Legislature that have been disallowed by the Chair in our proceedings, although there are strict precedents in their support. 'The toad beneath the harrow knows, exactly where each tooth point goes, The butterfly upon the road preaches contentment to that toad.' No one will acknowledge more readily and with greater personal goodwill that the harrow that plies under the hand of the occupant of the Chair is covered with the softest velvet. Howmuchsoever the butterflies ranged on either hand in your support in Council may preach contentment, they are not under the harrow, and however softly tempered or softly covered the tooth points may be, they are there and must be felt. After all, Sir, this Legislature is only in an embryo state, and when more fully developed we may even see the precedent of other more advanced legislative assemblies followed, and find this Legislature removed from Executive control in the office of its President. I acknowledge that there may be necessity for Executive control to continue for the present in this country. I merely desire to submit that Your Honour's analogy does not hold good, and does not justify the control of the meetings of the Municipality, by the Head of their Executive as their Chairman.

"The Hon'ble Member in charge of the Bill has said that there has been the fullest discussion on every point; but there is one point, and a most important one, to which I would ask his attention, with regard to which I have heard no explanation. The Bill was designed with elaborate care in order to provide for the condition that the numerical majority of the Hindus would continue to exist in the Corporation. Sir Alexander Mackenzie, in very decided terms, publicly stated that the number of Commissioners as constituted under the present law would remain untouched, that is to say, that the Hindu majority would continue to be a factor in the question. Permit me to remind you, Sir, and at the same time the Council, of your own words on the point—lest we forget!

"I feel that it is almost ungracious, when I recall the patient courtesy with which you, Sir, have listened to the proceedings of this Council and the consideration that we all have met with at your hand to criticise any word spoken by you. But I hope it will be recognised that this is a debate on an important question, and I have to make use of all the material that I find necessary and available. On my part I can say, no one will appreciate with keener interest and good humour any reply that is fair and to which I may have laid myself

open. It is far from my desire, and indeed would be contrary to my wishes, to suggest an attack on you, Sir. But, Sir, I have to perform my duty here, and I hope that I may be permitted to perform my duty without in any way causing any kind of umbrage. Sir, these are your own words:—

‘And, speaking for myself, I endorse with the heartiest pleasure and satisfaction the decision that the constitution of the Corporation shall remain as it is. I look upon it as of the greatest value to the administration of the City that there should be numerous wards and numerous delegates. The information and advice about local needs, which these delegates bring, will be of most important service. There could be no more excellent illustration than in the assistance they gave last hot weather in calming the fears of the people and establishing the temporary hospitals, which were the best means of reassuring them. I welcome, therefore, the arrangement which retains a large number of local Councillors, and the dangers of possible friction I personally regard as enormously outweighed by the certain advantages of their help.’

“Of the sincerity of these words I do not suppose there is an educated man in Bengal—or in the North-West—or in the Central Provinces—who would entertain the suspicion of a doubt. They might have certainly been accepted as Stygian oaths and inviolable promises. No expressions could have better conveyed a determination to maintain the number of Commissioners at 75, and that it was necessary and wise to maintain that number. To my bewilderment, being only a raw, newly-joined recruit in this Legislature, which has been described by high and responsible authority as free to shape the measure before it in accordance with the views entertained within the Council, I have found these explicit declarations swept away like chaff before the wind, and this independent Legislature shaping this measure, which presumably has been committed to their judgment, not in accordance with the declarations of their policy by two successive rulers of this Province, but in accordance with the executive order of superior authority. But, Sir, if the Local Government find themselves unable to stand up to the recoil of their own gun, there is yet another consideration in which the Government of India express themselves as being in complete accord with them, but which has been lost sight of. Sir Alexander Mackenzie and Mr. Risley have directed their objections to the Hindu element in the Corporation and the effect of their predominance in that body. The Government of India, in their summary, under four heads, of the grounds for a change, follow the same line, except indeed they mention the failure of water-supply, which is news to me, and since the changes in the constitution will not improve it, I let that pass. All the rest is directed at the Hindu element in the Corporation. The objections of Mr. Turner and of the Hon’ble Member who still represents the Trades centred round the same point. All that the Hon’ble Member who now represents the Chamber said hinged on the same subject. When circumstances have altered, when the mischiefs that were said to exist have been removed, when the causes that have been stated to have given rise to the evils complained of can no more be found, when the reasons, the presence of which we were told led to the introduction of this Bill, cannot be quoted, what justification is there for the revolutionary changes that now have been made? The whole aspect of the question has now been altered—it has been completely altered. The Bill was introduced under wholly different circumstances, and I have watched with keen interest to learn why—for what reasons—the Bill has been continued to be proceeded with on the lines on which it was originally framed. But the Government have not even attempted to give any reason or suggestion or any explanation whatsoever. If it was desired to define the powers of the executive, that could have been done without making the revolutionary changes that now have been effected in the constitution of the Corporation, but the new law has not improved matters, even in this connection. The public have been entitled to learn the reasons for such revolutionary changes, and I am curious yet to learn how these changes can be justified. I have looked for the sturdy independence, the self-reliance and the public spirit, that has placed the Trades Association in so high a place in public esteem, to assert itself in this Council; but I have looked for it in vain. I had hoped to find in the Chamber of Commerce the home for independent thought and independent action; but I have found their representative voting away, with the official Members, all the substance of what makes self-government a reality. If in their opinion, even under European influence, the Corporation cannot be trusted with any measure of real self-government,



and they have wanted a constitution with an independent and irresponsible executive, with powers given to a small Municipal Board that can be rendered purely nominal, with payment for the nominal performance of public duties, and working with closed doors, they have got their desires in the Bill. But they have never yet said that this is their idea of municipal reform. And, if only those whom they represent will take an interest in municipal affairs, I may be allowed to express my opinion, for theirs are the communities among whom I live and move and have my being, it is not difficult to predict that it will be from them that the objections to the scheme embodied in the Bill will come, and it will come from them with added force.

"If the desire for reform had been the real motive for this Bill, the proceedings leading up to its introduction would have been vastly different. Instead of a Bill being secretly fashioned in the inner recesses of the Secretariat and sprung upon an astonished public, there would have been an open enquiry and investigation, the opinions of those with knowledge and experience would have been courted, and an endeavour would have been made to give us a system that would have aimed at removing the mischiefs that had been found in the enquiry to have existed, and to provide against them. If decentralisation was required, it could have been seen how that could be effected, and we would not have had the Hon'ble Mr. Buckley declaiming on every opportunity that decentralisation was the greatest need of the municipal administration, and by the irony of events, with mechanical precision, holding up his hand to vote for complete centralisation of power in the Chairman. 'It is to be regretted that Calcutta was too proud,' said Sir Alexander Mackenzie, 'to borrow its constitution from Bombay, which to my mind has an admirable system, combining all that is required of popular representation with a strong executive.' Sir, if that was the acme of Sir Alexander Mackenzie's desires, and if the enquiry had made out that the present constitution ought to be changed, we might have had the Bombay system in its entirety, as is indicated by the originator of the Bill before the Council. We then would not have seen the Hon'ble Member in charge of the Bill rendered so unhappy by having to make protestations of the deepest hostility to any powers at all being left to the Corporation, and victimised by being driven to use arguments that were consistent only in their inconsistencies, not once or twice only, but again and again throughout the discussions,—now scornfully rejecting the Bombay Act, now quoting it in seductive tones in his own support as against proposals based on results that have been found to have been beneficial and successful under the present Act, and, of all contentions in the world, having to rely on the provisions of the present Act as to powers given under it to the Chairman to vindicate his amendments. Those with knowledge of our municipal administration have, from the first, regarded this Bill as being ill-considered and unworkable in practice. It has been before the Council for a long time, as we have so often heard. It never occurred to the framers of the Bill to insert the provisions of section 24A (now 16), which I shall presently more fully mention, and the Bill passed through two references to the Select Committee without any idea, apparently, that they would be wanted, and it brings into relief the criticisms on the Bill to which I have referred. That the section should have been found to be necessary only at the last stages of the Bill, and that the law would have been found unworkable without it in certain particulars, the proceedings themselves testify. But, Sir, the introduction of the section is not without interest to those who have been opposing the Bill, and for a very special reason. Sir Alexander Mackenzie and Mr. Risley loudly proclaimed that, under the present Act, the Chairman's powers were undefined and in a fluid state. I deny that there has been any difficulty in practice under the present Act: the duties have been sufficiently defined, and there has been no question in this respect. But Sir Alexander Mackenzie and Mr. Risley undertook to clearly define the respective functions and duties of the three so-called co-ordinate authorities, and their intention was expressed by the frame of the Bill as it existed until a few days ago. Now we have it that the General Committee, who have had certain specific duties assigned to them, to be performed by them at their own discretion and on their own responsibility, may delegate all that required 'their approval, sanction, consent or concurrence' to the Chairman. The powers that the General Committee can delegate are described, as will have been observed, in the widest terms. And

now the new law that was to effect such a great reform in this particular, and in place of uncertain provisions as to the respective duties of the authorities, to present well defined duties in explicit terms—and we know that Sir Alexander Mackenzie and Mr. Risley took credit to themselves for having carried this intention to effect—we, after all, find the provisions of the new law taking a form, at the last moment, more uncertain and undefined than the law that was so lightly condemned, and the Hon'ble Member who has been in charge of the Bill has now helped to complete the discomfiture of the attack on the Corporation, and has justified by his conduct, if not by his vote, the proceedings of his earlier official predecessors who were responsible for the law that is being repealed.

“Sir, if a constitution had been decided upon after sober enquiry and investigation, I might have differed from the views of the Government, but I would not have had the same ground for the strong objection I offer to the measure before us, and the proceedings relating to it. I shall now place before the Council, what they apparently do not know, the unbroken system of enquiry in years past that has been adopted in questions relating to municipal administration.

“The first proceedings to which I shall draw attention will be the report of a Committee made in the year 1840—I think that it will be found to be of great interest—that was appointed by Lord Auckland to enquire into local management and taxation in Calcutta. I would draw particular attention to the references made to the disposition of the mercantile community as distinguished from the trades, and in what a studied fashion they kept themselves aloof from municipal administration; and to the policy and anticipations of Government, even in those early days, with regard to the educated natives and the help to be expected from them:—

‘Your Committee have received only two plans of municipal government—one from C. K. Robinson, Esq., Magistrate, and the other from the Trades Association, the Chamber of Commerce declining to enter upon the subject as being beyond their province. Your Committee may have every reason to believe that the members of the Trades Association would perform the duties which they have proposed laboriously and zealously, and that if the inhabitants of Calcutta were all, or even a majority of them, Europeans, such a plan, based on election by inhabitant householders, would be found well adapted for municipal government; but considering that the European inhabitants are an insignificant part of the whole population of Calcutta, and that by far the greater part of them can only be regarded as temporary residents, your Committee cannot take upon themselves to recommend what they consider wholly unsuited to the present state and condition of the great majority of the inhabitants.

‘Your Committee are, however, of opinion that, considering the rapid progress now making in education, many years will not elapse before a class of natives will be found in Calcutta able and willing to aid their European townsmen in performing those municipal duties usually entrusted to the inhabitants of cities in Europe; and your Committee therefore feel anxious that some preparation should, if possible, be made for so training the inhabitants of Calcutta that they may in time relieve the Government entirely from the attention which it is now compelled to give to these minute local details.’

“The administration of Calcutta by a small Municipal Board continued until the year 1863, when a change was introduced in consequence of complaints emanating from the Trades Association. Again we find enquiry and close investigation into the question. Evidence was taken, and the whole subject was sifted before any new system was adopted. I shall place before the Council the remarks of Mr. Eden, afterwards Sir Ashley Eden and Lieutenant-Governor of this Province, who was in charge of the measure that eventually was accepted. The first proposal had been for an administration by 36 persons, and the scheme did not include any participation on the part of the officials of Government as such. Mr. Eden in introducing his measure said that there were two schools of opinion—one of them supporting the view that 36 persons would be found ready to devote their time in the interest of their fellow-citizens, the other not agreeing with this view. I shall give in Mr. Eden's own words the views of the latter school, and again I would draw attention to the opinion entertained in his day with regard to the chances of Europeans taking part in



the administration of Calcutta and the qualifications of the natives for doing so. This is what he said in Council on the 17th of January, 1863 :—

‘There are those who hold an entirely opposite opinion, who say that it would not only be impossible to get thirty-six volunteers to carry on the work of the Municipality, but that not even six men would be found ready to sacrifice any reasonable portion of their time for the good of the public. They say that the European residents who understand and appreciate representative administration are too busy to take any part in local administration in this country, and that the native residents neither understand nor appreciate anything of the sort.’

“The next change in the administration was effected in 1876. Again, we find the Government of the day approaching the subject with an open mind and in a liberal spirit. Counsel were heard on the question of the elective system before a Committee of the whole House, and after an open discussion the elective system was granted, the Lieutenant-Governor of the day, Sir Richard Temple, giving the widest latitude to his official Members in all the questions that were raised. It was on this occasion that the Government deliberately rejected the proposal of a Municipal Board working with closed doors, on the ground that the most complete publicity was beneficial in the interests of the public. We have the strongest testimony from more than one quarter that the success of the new system equalled anticipations. I have already quoted a letter in a previous stage of the proceedings under the signature of Sir Alexander Mackenzie, dated 10th January, 1884, when he was Secretary in the Home Department of the Government of India, conveying the approval of that Government of the work done by the Corporation. He said that they had done ‘much excellent work’ in the year. And it was significant and important that this should have been communicated at that time by the Supreme Government, because it was about the time when the Beverley Commission, of which we have heard so much, was appointed. And those who have been quoting that Commission against the Corporation have lost sight of the fact that the agitation that led up to its appointment gained strength by reason, not so much of the faults of the Commissioners, but what was discovered to be the *laches* of the executive, who had neglected to flush the sewers, and thereby had been the cause of the very foul odours in the European quarter that had caused the strong outcry among the European residents of Calcutta. I have already in a previous stage of our proceedings quoted Sir Henry Cunningham, who led the agitation in those days, that the announcement of the existing conditions with relation to the Beverley Commission was ‘a most satisfactory’ one and how he ‘had never heard of any one so ignorant and so foolish as to under-value what has already been done,’ and that the Corporation under its popular form of government had ‘revolutionised the sanitary condition of many parts of the town.’ Again, when we have the next change, which occurred in 1888, we find it preceded by a careful enquiry instituted by the Government of the day. It was at this time that the amalgamation of the suburbs was effected, and it was preceded by careful investigation by a Commission appointed for the purpose. In the proceedings in Council relating to that Bill the whole subject of representation was most thoroughly discussed. As the Member in charge described it, the measure that the Government adopted was a ‘compromise between two extreme views’ on the question, and the extreme view against the measure put forward on behalf of the European community never contemplated changes as revolutionary as those now adopted by the Government. And let me quote contemporary opinion on the work and efficiency of the Corporation, that was expressed by an official supporter of the Government on the motion that that Bill be passed into law. ‘Speaking as an occupier,’ said Sir Alfred Croft, ‘I should say that the Municipality is well governed, it is well watered, well lighted, well drained, well watched,—in fact, in all points by which one can judge of the success and value of a Municipality, the Municipality of Calcutta comes out well.’ What more favourable opinion can ordinarily be expected of any Municipality? And let me give again the words of Sir Henry Harrison :—

‘Was it not still more gratifying to reflect that this experimental system had in sober truth developed in many of the most experienced Commissioners that moderation in judgment, that sense of responsibility in action and discussion, that toleration of opposition, that

practical sagacity which is at once the test of the experienced administrator and the best guarantee for the confidence bestowed in him? Was it not a legitimate triumph that, now that the necessity of making more sustained efforts for the improvement of the suburbs of Calcutta was at last fully realised, no better course suggested itself than to make them over to the same body who had retained the town of Calcutta?

"I am led to ask the Council to compare this glowing eulogy on the Hindu Commissioners with the report of the Committee that I first quoted, when the policy of leading the natives of this country to take part in municipal administration was first foreshadowed; and later, with the words of Mr. Ashley Eden, when in 1863 he expressed a view that they were not yet fit to take part in the administration. Sir, it is no exaggerated language that Sir Henry Harrison uses when, after describing the high qualities that have been developed in the natives of this country by the wise and statesmanlike policy of succeeding generations of governors, he speaks of the achievement as 'a legitimate triumph,' and particularly when the splendid product of British sympathy and British genius could be put to practical use when the Government had failed in their administration of the vast area of country comprising the suburbs, and help was required to administer it with better results; no better means, says Sir Henry Harrison, could be devised for this purpose than for Government to hand it over to those who had, as Sir Henry Harrison truly says, 'reclaimed Calcutta.' Are we to regard these persons so spoken of by a responsible official as being still *in statu pupillari*, as has been described here to-day? Are they to be regarded as persons who have not yet learnt responsibility in administration? Or are we to regard them as having attained their majority and as having proved themselves equal to the task left for them to do? I think, Sir, it is the latter view we must take, but, where now is the triumph to which Sir Henry Harrison exultingly referred? Where now is the principle to which Sir Henry Harrison referred with legitimate pride? All those qualities that had been fostered by Government with so much care and thought are now wasted. The services of those to whom Sir Henry Harrison referred are now lost to their city and as if they never had been, except, indeed, the splendid monument of their efficient administration that they have left as a standing testimony against their detractors.

"Sir, I am entitled to quote the Act of 1888 as a stamp of approval by the Government of the constitution of the Corporation of Calcutta and of their previous municipal administration. Have the Corporation been found wanting in their duties, so as to forfeit the good opinion of which the Act of 1888 was the outcome? What has happened that there should be any of these drastic measures adopted for the purpose of setting aside the people who have been able to appreciate their duties and to perform them well? Sir, that can easily be told. We know what the condition of the suburbs was, and we know what has been done since they were taken over by the Corporation. I can show that they have not betrayed the confidence that was reposed in them, and that they have administered the affairs entrusted to them with pronounced success. Let me compare the condition of the suburbs when Government handed over charge, with its condition now. I shall quote from a report by Sir Henry Harrison which has been most opportunely published at this juncture, and for which the Corporation are indebted to their present Chairman, describing the state of the suburbs under its administration by the Government and at the time when they were handed over to the Commissioners of Calcutta, with what has been done for that area by that much-abused body. Sir Henry Harrison in his description says that hardly a rupee of capital had been expended upon it, and expenditure was quite as urgently requisite for the suburbs as it was in the case of the town 20 years before. He enumerates the wants of the suburbs thus:—

1st.—The water-supply of the town should be extended so as to give reasonable facilities for obtaining pure water for domestic purposes to all residents in the suburbs.

2nd.—Some system of underground drainage should be introduced.

3rd.—The new area is intersected with tanks, many of them filled with most unwholesome water, the number of which far exceeds that in the town ten years ago. Considerable outlay for the conveyance of earth from a distance will be requisite.

4th.—The condition of the Muhammadan burial-grounds is such that it is imperatively necessary to take up land at an estimated cost of 1½ lakhs, in order to enlarge them, and allow a suitable interval between the use of the same ground for a second interment. It is found



that at present the same land has to be used over and over again, after three years in the less crowded, two in some of the others and scarcely more than one year in the most crowded cemeteries. Will the Government give the money, or will it refer the Burial Board to the Municipality?

5th.—The conservancy of suburbs is at present managed by the contract system, and it is understood that it does not give satisfaction. It will be at least desirable to incur a considerable outlay in building *govekhanas* and purchasing conservancy carts and cattle; possibly also a railway extension may be necessary so as to remove the bulk of the refuse more easily to a distance.

6th.—A proper *dhobikhana*, as at Bombay, where *dhobis* will be provided with pure water and other cleanly surroundings will also be a great desideratum.

It would be easy to add to the list, but the above outline is sufficient to show that a considerable outlay in the form of capital, is a *sine qua non* to the success of the new Corporation.

“It is interesting and instructive to note how far these needs have been supplied. I quote a *résumé* from the current Administration Report in which the Chairman of the Corporation has summarised what has been done:—

‘No less than 132·03 miles of mains and services have been constructed at a cost (including alterations to mains and piping) of Rs. 10,30,562. This, together with the sum of Rs. 7,80,297 in a new pumping station and accessories, makes a total expenditure of Rs. 18,10,859, and to this should be added part of the expenditure incurred in increasing the pumping power of the town. As a result of this large expenditure the added and suburban area is now supplied throughout with an excellent supply of filtered water. The first need of the added area has therefore been met.

‘The second crying need of this area was declared to be the provision of a scheme of underground drainage. This question and that of improving the drainage outfall of the town area was gone into most carefully by the Corporation. It will probably take nearly three years more to complete the whole scheme in all its details, but the work has made good progress, and it is hoped that the scheme when finally carried out will be entirely successful. Due action has, therefore, been taken to provide for the needs of the suburban area in this respect.

‘The third point, upon which improvement was said to be required, was to fill up the filthy tanks which are so numerous in the suburbs. It has been found impossible to deal adequately with this very large question, but the provision of filtered water has done away with all necessity for using the water of these filthy tanks for drinking. A number of tanks have no doubt been filled up, but the total number is so large that very little impression has been made upon it.

‘The next point upon which improvement was required was stated to be the provision of proper Muhammadan burial-grounds. Here, again, this need has been to a certain extent met, as the Corporation two years ago provided a fine cemetery at Gobra, which has been filled up much faster than was expected, and the arrangement of which has now been sanctioned. The total cost amounts to Rs. 35,584.

‘The next point upon which improvement was declared to be necessary was in the conservancy of the suburbs, which was managed by the contract system. Here, again, much has been done to improve matters. But it is in the matter of the disposal of night-soil that great improvements have been effected, and the trenching system has been entirely abandoned owing to the construction of temporary sewage depôts at Hazra Road and Budge-Budge, where the night-soil is emptied into the sewers and then pumped into the large Circular Road sewer at Bhawanipur. This scheme necessitated an expenditure of Rs. 3,93,325.

‘The last improvement suggested by Sir Henry Harrison was the establishment of a *dhobikhana*. Here, again, the need has been met. A municipal *dhobikhana* was erected at a cost of Rs. 50,967, including the cost of acquisition of land.

‘Since the added area has been included, the Corporation has either fully or partially met all the needs of the added area, which were declared to be most pressing. They have given a full supply of filtered water, they are constructing a complete system of sewers, they have established an incinerator to dispose of the refuse, and have changed the system of the disposal of night-soil, while they have instituted a municipal *dhobikhana*.

‘But they have done much more than this, for they have extended the unfiltered water-supply to the south added area, and have opened out a number of very fine roads. On the former they have expended Rs. 7,98,547 (including 41·75 miles of mains, branches and hydrants). On the latter they have expended Rs. 8,80,140.’

“But it would be wearisome to go into further details. It will suffice to say that we are now paying the sum of three lakhs of rupees as interest on the capital sum that is being employed in the suburbs in improvements. I again would remind the Council that under the administration by the Government, as Sir Henry Harrison described it, hardly a rupee of capital had been expended in it, and that it was in as backward a condition when the Calcutta Corporation took it over, as the town of Calcutta was 20 years before. The Corporation, it will be seen, cannot be justly charged with having neglected their opportunities, but, on the contrary, they deserve the highest commendation for the excellent work that they have done since the amalgamation.

"Sir, with all this, why is there this change? What necessity is there for it? At whose suggestion has this change been brought about? Certainly not at the suggestion of Sir Henry Harrison, because it is clear he could not have said that the Corporation was unworkable. In describing the method of working in the Municipality, in the course of the proceedings of this Legislature in connection with the Act of 1888, which it is the purpose of this Bill to replace, he said:—

'He believed the system of work which had gradually developed itself in the Municipality was eminently advantageous and reasonable.'

"At a later stage of the proceedings to which I have referred, when combatting a proposal to alter the constitution of the Municipality as it at present is formed, he said:—

'We have existing lines to work upon, and unless we are prepared to say that the Corporation will not work on these lines, it is undesirable to change them. I am not prepared to say that the proposed constitution is unworkable.'

"He was succeeded by Mr. Lee. Well, Sir Alexander Mackenzie has told us that every Chairman, at one time or another, except Mr. Lee, has said that the constitution was unworkable. The Hon'ble Mr. Oldham spoke of Sir Henry Harrison, Mr. Lee and Mr. Bright as 'the champions of the Commissioners.' In the first place, Mr. Lee never spoke to Sir Alexander Mackenzie, and in the second place he has put his opinion on record, and that opinion is contrary to the idea of the constitution being unworkable. I know that Mr. Bright did not make any suggestion of this sort, and I am glad of the opportunity of being able to say so in his presence to-day. Mr. Williams, with regard to whom Sir Alexander Mackenzie denied with emphasis that he had complained of the Corporation, it could not have been. Mr. Ritchie was the only Chairman left of all those who have held office since 1888; it could not have been him, because many of these matters which are brought forward as charges against the Corporation are matters which occurred during his Chairmanship, and in connection with which he has in the most frank and manly way taken the whole blame, if any there be, on himself, and has entirely exculpated the Corporation and the Commissioners. Then, who of all the Chairmen—and none but the Chairman can be said to speak with any authority—have complained of the system being unworkable? We are driven to this conclusion that Sir Alexander Mackenzie must have been the dupe of his own theories and general ideas which falsified his judgment. I cannot find one of the Chairmen since 1888 who could possibly have made any such suggestion as that which underlies the provisions contained in this Bill. Sir, we know further that Sir Steuart Bayley thought nothing of the kind. That Sir Rivers Thompson did not think it was necessary to change the constitution is clear, because I have already placed before the Council how he resented the proposal made by Sir Henry Cunningham, who himself withdrew it. Then, Sir, what is the reason for all this? I come now to what the Hon'ble Mr. Oldham said at our first meeting. What he said, as far as I could understand him, was that the only exception he took was to the Hindu predominance. Then he spoke in the warmest terms of eulogy of the Hindu Commissioners. He said:—

For more than a year I have been a Commissioner myself, and have worked with them and therefore have been able to understand more clearly than before now, from time to time, such as men as Sir Henry Harrison, and Mr. Cotton and Mr. Lee, and now the present Chairman, Mr. Bright, have stood forth as the champions of the Commissioners. I believe them to be an upright and devoted body of men who have carried out with singular ability the duties entrusted to them; but I deny that they are representatives.'

"The Hon'ble Member was not satisfied with what he had said. Later in his speech he returned to the point. He said:—

'The sole difficulty I have found, so far as my own attitude in the case is concerned, is that we are now endeavouring to take away, after 21 years, a power of which they have been faithful trustees and which they have exercised so well.'

"Now, Sir, under the present Bill the predominance of the Hindu is gone, and I looked for the support of the Hon'ble Mr. Oldham in our endeavours in



some degree to alter the constitution of the Corporation as it is designed in the Bill, seeing the position he took up when the Hindu predominance existed. Certainly from the words he used I expected his support. But I looked in his direction in vain. Inexorably, his hand went up always in support of the lead given by the Hon'ble Member in charge of the Bill. What the reason is why he persists in supporting this change in the constitution I am wholly unable to understand. All that he complained of was the Hindu predominance. Under the new scheme that predominance cannot exist. He, nevertheless, supports every change that has been suggested in this Bill. But, let us examine, what were the reasons he gave for his view that the Hindu predominance is a determining factor as against my contention that as a matter of fact the Hindus in the Corporation have not used their numbers to swamp their colleagues? He said that so far as the General Committee is composed of elected Commissioners there is not a single Muhammadan, and that so far as it is composed of nominated Commissioners there is only one Muhammadan. The latter gentleman is my hon'ble friend, Prince Mahomed Bakhtyar Shah. But the Prince being a nominated Commissioner his election to the General Committee has been made by the nominated Commissioners, among whom there are only three Hindus, so that it is clear there is no Hindu predominance among the nominated Commissioners and other Muhammadan Commissioners have not been kept out of the General Committee by reason of Hindu predominance. Then, as I have said, the Hon'ble Mr. Oldham referred to the General Committee not having upon it a single elected Muhammadan Commissioner. It is perfectly true there is not a single elected Muhammadan Commissioner; but, if the Hon'ble Mr. Oldham had been in the Corporation previously, he would have known that last year there was one, and that the year before there were two, and in previous years Muhammadans have been elected; the form of election is of such a confusing character that it is impossible to distinguish in the long list from which selection has to be made, so that the Muhammadan and the Hindu members can *qua* Muhammadan and Hindu be fully represented. Whom would my hon'ble friend exclude in order that his place might be taken by a Muhammadan? The absence of a Muhammadan from the General Committee is quite an accidental circumstance, and it cannot in any way be used to say that the elections are not fairly conducted. The appointments of these Committees depend on the merits of individuals. We have in the Committee possibly six or seven who are elected year after year, and I venture to say that the Hon'ble Member approves of these elections. We have others constantly shifting, and it happened that at the last election time there perhaps was no Muhammadan Commissioner who had been found so attentive and regular as to obtain election for himself. But that one little matter does not show that it is due to any Hindu predominance. Then my hon'ble friend referred to his own ward, No. 15, where he resides, and said that there have been two Muhammadans elected to controvert my contention that under the new scheme Muhammadans will have but a small chance of being elected. Now does my hon'ble friend know the circumstances as I know them? Why, the Muhammadan gentleman whose name my hon'ble friend brought forward so prominently sent in his name at the last moment, when he found that only one candidate had been nominated, when the ward enjoyed the privilege of returning two Commissioners. It was expected that a European would offer himself, and no one stood in consequence. But the European came in too late to be qualified as a candidate, so that in regard to Ward 15 the Hon'ble Member's contention with regard to Muhammadans is not conclusive nor is carried for. I will give another instance, in regard to Ward No. 16, that indicates insufficient interest and consequent want of attention on the part of Europeans in municipal affairs. No one had sent in his name to the very last as the second candidate, when a Hindu gentleman, finding the vacancy going a-begging, sent in his name. A European then sent in his name, but it was too late, and his nomination was not admitted by the permanent Chairman. The officiating Chairman came in and overruled the permanent Chairman, and permitted the European to come into the contest, and he was thereupon elected to one of the seats for Ward No. 16. In these two matters it is not the Hindu predominance at all that is in question, but the negligence of the Europeans in sending in their names.

"Then, Sir, I come to the statement of my hon'ble friend, which I am sorry he has made. He referred to Sir Stuart Hogg's argument about 'birds of passage' as follows:—

'When I think of him as using this astounding argument, I can only look on him as giving up, with both hands, in the very plenitude and wantonness of power, everything that might be urged on his side.'

"Well, Sir, does my hon'ble friend quite realize the meaning of these words? Sir Stuart Hogg was then retiring from the Chairmanship of the Corporation, so that if he had this 'plenitude and wantonness of power,' it was not as if he was going to revel in it; and are we to take it that he had no consideration for his own community and for the member of his own service who was going to succeed him, and that he merely made use of this argument as a practical joke? I ask the Hon'ble Member to reflect what the position held by Sir Stuart Hogg was. He was a responsible officer of Government performing responsible functions in this Council. He was in charge of the Municipal Bill of that day, and to speak of an argument he seriously put forward in the terms employed by the Hon'ble Member caused me to feel regret. Why, Sir, it would leave open to any one, coming after the Hon'ble Mr. Oldham, to criticise what he has said about the Hindus being such trustworthy Commissioners as being said in the plenitude and wantonness of power, or if that expression be not applicable to the Hon'ble Member's position, then as being a statement that was not genuine or sincere. I confess that I should view with regret a condition when our proceedings are placed on a level that criticisms of this character would indicate. I am not a member of the service to which Sir Stuart Hogg belonged; nevertheless I cannot allow the criticism on him to pass unchallenged. I do not allow that Sir Stuart Hogg was otherwise than genuine and sincere in his argument. Apparently those who represent the Government feel hit by his argument very strongly, and they are consequently trying to belittle it as much as possible. Then, Sir, my hon'ble friend, Mr. Baker, compared the Corporation to a railway, and said that a railway is not to be gauged by its value to the shareholders. Of course, Sir, a railway is a great benefit to the country through which it passes, but on that account its administration is not taken away from the shareholders. Then, Sir, we have heard the Hon'ble Member in charge of the Bill speak of the Educational Department and say that you cannot value the Educational Department by the salaries paid to the teachers. I am unable to catch the Hon'ble Member's meaning in his illustration. For analogy, are we to look to the Executive of the Corporation who receive salaries? Surely the Hon'ble Member does not mean that we are to value the Corporation by the salaries paid to their Executive, and the benefit derived by the Executive is the measure by which we value the Corporation. Now, the first benefit of the Educational Department is to those who are taught, and if you were to place them in charge of the Educational Department there would be a fine hurlyburly. Then, Sir, we come to what the Hon'ble Member for the Chamber of Commerce said. He said he had been a member of the Corporation since March, and that he only consented to be nominated on the understanding that he would not be required to attend meetings of the Corporation until the new Bill came into force. Then, Sir, what was the use of joining at all? He did not do us the honour to attend until the last occasion when we held a meeting.

"Is this the standard by which we are to judge of the interest that the mercantile community take in the municipal administration? Does not this abstention give point to the Hon'ble Mr. Oldham's remark on the occasion of the reference back to the Select Committee last month, when in speaking of the Hindu Commissioners, he said:—

'I cannot say that they have usurped power. They have attained it by fair means and their own abilities, and because it was left to them.'

"Is not this a sufficient answer to the charge, baseless as I always shall insist, that the Hindu Commissioners have swamped the proposals of the Europeans by their solid and class voting? The Europeans do not take their proper share in the municipal administration. I say it with regret, but it cannot be seriously



denied, that what may be called local patriotism is not a marked feature among the Europeans of Calcutta. It is because they have abandoned the field, deliberately, for their own convenience and in order to give their time and attention to more lucrative employment, that others, and conspicuously among them the Hindu Commissioners, filled the vacancy. These have undertaken public duties and have carried on these duties in the words of the Hon'ble Mr. Oldham 'with singular ability' and as 'faithful trustees.' And when the Hon'ble Mr. Oldham continues in the speech from which I have quoted, and says,

'But it has become a monopoly and is complained of,'

I answer that the preceding sentences are an answer to him. It should not be a subject of complaint that they should have performed functions that would have been left unperformed but for their public spirit. And there is the less reason for him to suggest a complaint or to array himself against them when he himself admits that they have conducted themselves faithfully and with ability.

"We have been told by the Member who preceded the Hon'ble Mr. Mackenzie in the representation of the Chamber how their reforms were swamped and obstructed by the Hindu Commissioners. Well, Sir, I have been a member of the Corporation for many years, I have taxed my memory and I have been trying to obtain information as to the part that has been played by those who have represented the Chamber. I do not recollect, and I have been unable to learn of, an occasion on which the representatives of the Chamber have been swamped by the Hindu majority. The occasions when they have intervened actively have been few and far between. The Council can judge of the character of the interest they have shown by the subjects in which they have interested themselves. One of their representatives was interested in the rules to be made by the Municipality with regard to game birds, another in the tramways question and supported a policy which was considered to be inimicable to the Municipality by the Hon'ble Member in charge of the Bill, another in the gratuity to be paid to the widow of a deceased European officer of the Corporation, and the fourth Commissioner, as I have already mentioned, was the Hon'ble Member himself when he took part in the discussion referred to the other day. That discussion disclosed at all events, since there were so many standing orders broken, that he came to make up for lost time. It would be well, Sir, if the members of the commercial community were provoked to good works by those with whom they cannot agree. It is simply a waste of power for any one to join and refuse to take part in the meetings. I say that not only have their reforms never been swamped by the Hindu majority, but I also assert that they have never given that majority an opportunity of swamping them. They cannot judge of what they could or could not do by abstaining from attending altogether, and, Sir, I am bound to say that although there has been the most complete acceptance of the disclaimer on his own part by the Hon'ble Mr. Mackenzie of any knowledge in regard to the incident in connection with himself that was mentioned the other day, I cannot help thinking how few would escape blame if the measure with which we measure were meted to us again. The Hon'ble Mr. Mackenzie has had an opportunity in this Council of giving an explanation with regard to himself which, as I have said, has been accepted. The Hon'ble Member has had the advantage of having had an opportunity of giving an explanation, and he has availed himself of it. Here we have Hindu Members, who have been blamed by the Hon'ble Member's brother, Sir Alexander Mackenzie, and others for all sorts of things, even for corruption, and they have never had the opportunity of explaining them away. Can the Government say if the Hindu Commissioners had enjoyed the same advantage and an opportunity had been given them that they also would not have been able to explain away the charges alleged against them in a manner equally satisfactory?

"Endeavour has been made to controvert my contention that the idea of Hindu predominance is a myth. I certainly have not been shaken in that contention; on the contrary, I feel the stronger in my contention after having

heard all that can be said against it. Hindus have of course been in a numerical majority. But that they have used their numbers for the purpose of out-voting their colleagues is an idea that cannot be substantiated.

"If we set aside the idea that the constitution of the Municipality was unworkable as mistaken, and the idea that the Hindus swamped the reformers by their class votes as illusory, for what are we to say that the Bill was necessary? What have we remaining except the charges made on the introduction of the Bill and when it was referred to the Select Committee on the first occasion? Those charges have been shown to be fallacious, and if only an enquiry, which has been so persistently asked for, and which in fairness ought to have been granted, had been held, they would have been disproved in the most complete manner and would have to be set aside beyond all doubt and controversy. I do not wish to go back into all the old matters which have already been dealt with, but there are some further matters which appear in the reply of Mr. Risley when the Bill was referred on the first occasion to the Select Committee. He said that the Corporation did not realize their duties with reference to the building bye-laws. Well, Sir, if bye-laws have been contravened, it is entirely the fault of the presiding authority in allowing anything of the kind to be done. I have made enquiries, and I have found this, that those very instances which Mr. Risley gave would have been permitted under the provisions embodied in the new law. Then, Sir, he has given other instances of failure on the part of the Commissioners, amongst others, with regard to the *dhobi-khana*. I have shown already that it is not the fault of the Commissioners that that undertaking has not been carried through. Then he referred to the Loans Department. I have shown already how the present Chairman entirely agreed with the Commissioners and set aside the orders of his predecessors. Then Mr. Risley referred to the Warrant Department. There, again, I have shown that the Chairman is entirely in accord with the Commissioners in the action they have taken. He referred to the *bustee* improvement question; but he did not take into account, as I have shown, the money spent for *bustee* cleaning as well as for improvement. He only took into account the sums spent for structural improvement, and even then he did not take into account the sum of 8 lakhs which have been spent in the opening up of Harrison Road, a continuous *bustee* of more than a mile and a half in length. It will be remembered that I read out to the Council the letter setting out this fully, which was dated 13th April, 1895, and addressed by Mr. Ritchie when he was our Chairman to the Local Government. Mr. Risley was, I believe, Secretary in the Municipal Department at the time, and the letter must be filed in his own office. But he did not avail himself of the information that was ready to his hand when he made his attack on the Commissioners. Then Mr. Risley referred to the question of the plague. He said that the Commissioners were incapable of meeting the emergency. I am not going through all the details of that subject, but I emphatically deny that whatever was done by the Commissioners with regard to this matter was done under pressure by the Local Government, as was suggested. The sum of Rs. 30,000 has been spent by the Commissioners out of their own free will and on the initiative of the Corporation, as can be most decisively shown, and not from any outside pressure, such as Mr. Risley endeavours to show; and in this connection there is a point which I think ought not to escape the attention of this Council, and it is this. Mr. Risley said how at the last moment it was due to the strong pressure employed by Sir John Lambert at the meeting of the 9th October that the Commissioners consented to employ a Chief Superintendent of Conservancy. Well, Sir, as a matter of fact, Sir John Lambert attended the meeting of the Corporation on the previous day and spoke against a permanent officer, which was the gist of controversy; he suggested a temporary officer, which was a very different proposal; and it was at once accepted by the meeting as worthy of consideration and referred to the General Committee, which is the Finance Committee, to consider the details of the question. The Committee met on the following day, when he attended, and from the proceedings of that meeting I hold in my hand I am able to say he did not speak a single word in favour of the suggestion he made in the general meeting. The motion was nevertheless carried unanimously, and the proposal, based on Sir John Lambert's suggestion,



was carried into effect without delay, so that the idea that the appointment was in any way due to the pressure brought to bear by Sir John Lambert or that the Corporation were in any degree reluctant and required pressure to agree to it is not borne out by the facts we know. There is a resolution under the signature of Mr. Risley, dated the 10th of October, 1896, in which this appears:—

‘The Lieutenant-Governor expressed his entire approval of the steps taken under the Commissioners’ orders to give special attention to the cleansing and sanitation of Calcutta.’

So that that entirely disposes of any charge under that heading. I have now been through all of these charges preferred by Mr. Risley except that referring to the Goragatcha trenching ground. We have been blamed very much because of the nuisance which existed there. But Mr. Risley has omitted to mention that when the suburbs came under the administration of the Calcutta Municipality, this trenching ground was the subject of contention in the Law Courts, because of its being a nuisance, and proceedings were stayed against the Suburban Municipality only because there was going to be the amalgamation to which I have referred. After the amalgamation every endeavour was made by the Commissioners to stop this nuisance. I personally with other Commissioners again and again pressed upon the Executive to abate it as an urgent question, and whenever asked the Commissioners voted funds. But nothing could be done, because the Health Officer and the Engineer could not come to any agreement as to what was required. Eventually this is what the Chairman wrote on the subject in a letter, dated 15th August, 1895, and addressed to the Local Government. I will read extracts of it to show how little the Commissioners were to blame in this matter. After giving a history of the subject, in the course of which he quotes the Health Officer’s note, and dated 11th May preceding:—

‘The first thing that happened after the suburbs were amalgamated with the town was the prosecution of the Municipality for creating a nuisance at Goragatcha. Such a prosecution had been long threatened against the Suburban Municipality, but had been stayed off by the promise that when the amalgamation took place, the nuisance would be removed.’

“It is the duty of the Executive to place proposals before the Commissioners, but no scheme was submitted to them. The Chairman later says:—

‘I did not lay the complete estimate for raising and levelling the land before the Committee in October, because the estimates with which I was furnished seemed to be unnecessarily high, and also because we were threatened with a suit of which the object was to prevent us trenching at Goragatcha at all which was not disposed of till 31st May, 1895. \* \* \* When it became apparent that the temporary scheme designed by Mr. Hughes] was not approved by Mr. Latham [Sanitary Expert of London who was consulted], I recommended to the Commissioners the acquisition of 50 bighas of land at Jinjrapul. This was sanctioned on 29th May, though the site was subsequently altered to Batchala. At the same meeting, Rs. 27,745 was sanctioned for raising the site of the new land at Batchala. \* \* \* I must admit that the result has been unsatisfactory; but in doing so I desire to absolve the Commissioners from blame \* \* \*

‘9. It is the custom of Government to review minutely every year the annual report submitted by the Corporation, which gives the fullest account of the progress of their works, of their schemes, and of their administration, generally. The work of the Commissioners has of late years secured the express approval of Government, and the Commissioners have had no hint on a full review of facts and figures, ways and means, that Government think that they have been wanting in a sense of their duties and responsibilities as guardians of the public health.’

“Mr. Risley was, I believe, Secretary when this letter was sent to the Local Government, and it must be filed and was available in his own office when he made his attack on the Commissioners. I refrain from comment on the aspect that presents itself, but I crave leave to ask, is the cause just that is advocated by the methods I have disclosed?

“Sir, in this connection there is a matter which is of great interest and to which I particularly desire to call the attention of my hon’ble friend Mr. Buckley. The Hon’ble Member rose up and loftily exclaimed: ‘What! do you mean to say that the Local Government here are not as fit as the Local Government Board in England to control the Municipality?’ My hon’ble friend does not bear in mind how much the conditions differ in

favour of the Local Government Board in England. In England there is the command of a large supply of expert opinion. There, officiating appointments are practically unknown, and office-holders continue in their duties from year's end to year's end, with only an occasional holiday when they generally are within call of their head-quarters. In India, officiating appointments cannot be said to be the exception. It seems to me as if every officer is acting for some one else who has either gone to Europe on leave or has been lent to another Administration. And the Government appear to constitute themselves a sort of educating agency. How often do we see appointments made when the person appointed has to learn the business of his new appointment. City engineers and sanitary experts are not born, but must have long training and wide practical experience before they can become authorities. The Local Government have very able officers in their service, but how many have the necessary knowledge by training and by experience to constitute them reliable authorities in the Departments I have referred to? Well, Sir, our experience is that we have had many matters which have been urged by the Government of Bengal, which have not been practicable in which they have shown that they have not the knowledge to make them safe-guides."

"I wish to mention in connection with this Goragatcha scheme that the then Lieutenant-Governor, Sir Charles Elliott, went down to the spot and himself ordered that there should be five feet of trenching for one foot of soil, and stated that he had done so in reply to a petition of the residents of Alipore. This was in May 1895. Then there was a complaint made by the Chamber of Commerce in July—I may mention, incidentally, that the President of the Chamber was a resident of Alipore—and then the Government wrote to them to say that they had given directions among other things that 'in no trenching ground should the depth of the trenches exceed three feet, nor should the bulk of sewage deposited exceed one-half of the amount of earth filled in'—a remarkable departure within three months, is it not? The letter of the 15th August from Mr. Ritchie was the reply to the letter giving these directions. But let me show the value of the Government directions, and on the information and knowledge on which they act from extracts of a letter I hold addressed to the Chairman in the handwriting of the Health Officer of the Corporation, Dr. Simpson, who has so often been referred to by Government as an eminent expert in sanitary science. I have obtained the document from the Municipal Secretary. This letter was 'in reply to the letter of the Bengal Government, dated 23rd September.' He writes:—

'That the District Magistrate's report as to all attempts to trench the ground on proper principles have been abandoned and the night-soil is simply poured into deep trenches, which are insufficiently covered with earth' is extraordinarily in accurate. \* \* \* The only remark I have to make is that it is a pity a responsible official should not have been more careful in his statements on a subject on which the public mind is peculiarly sensitive and where the Corporation are labouring under great difficulties.'

"Then, after showing that the Civil Surgeon of the 24-Parganas in his report that had been quoted in the letter to which he was replying, had not appreciated 'one of the practical difficulties of trenching,' Dr. Simpson continues as follows, and I ask the Hon'ble Mr. Buckley's particular attention to what he says:—

'If the instructions of the Government, as conveyed in their letter dated the 5th (sic) of July, had been followed and the bulk of sewage deposited in the trenches had equalled one-half the amount of earth filled in, the nuisance created would have been of a most pronounced character and would have probably produced a similar effect to that caused by carrying out the Government instructions conveyed in letter No. 58 T.M., dated 14th May 1895. With reference to Goragatcha, these two instances show that the Government are not well advised in these matters, and that they have been issuing orders on a subject in which the local authority have the advantage of sounder advice and more practical experience.'

"It is my intention to give one or two more instances to show to what an extent the Government are liable to mislead themselves, in order that there may be no misapprehension that I am not speaking in vague generalities, and that I can substantiate what I have said in this connection. I shall content myself with what appears in but one letter from the Chairman, Mr. Ritchie, dated the 13th April, 1895. This letter is the same one from which I quoted



with reference to the charge of Mr. Risley that the Commissioners had neglected the directions of the Government with regard to *bustee* and town improvement. The subject that I will take now is the suburban drainage scheme. The Government had incessantly charged the Commissioners with unnecessary delays, heedless of their protests that they were being unjustly charged. The European Press and the European public, uninformed as always on municipal questions, thought that they would be perfectly safe re-echoing charges made by the Government. Sir Alexander Mackenzie, on entering upon office, modified the opinion formed by Government, but Mr. Turner repeated the charges in this Council. This is what the head of the executive of the Corporation says in his letter :—

‘3. It is at the chief executive officers of the Corporation, and not at the Commissioners, that these criticisms should be levelled.\* \* \*

‘4. I accept the full responsibility for the alleged unnecessary delays, and I wish to make it clear that the Corporation is in no way responsible for them.\* \* \*

‘11. It is unnecessary for the purposes of the present letter that I should touch further upon the details of the controversial points in the Calcutta drainage questions. I would only state my opinion that the better acquainted a person is with the physical conditions surrounding Calcutta, the more will he recognise the extreme difficulties of the drainage problems presented, and that it is a mark of sciolism to treat these problems as if they were capable of summary and expeditious settlement, and to refuse to make allowances for the great difficulties involved, as the public are too apt to do.’

“I ask the Hon’ble Mr. Buckley to particularly note the expression that is used with reference to the attitude of the Government—‘mark of sciolism.’ When we have a Government servant telling the Government straight that their attitude is due to superficial knowledge, I think that the situation must be described very mildly indeed. I would ask the Council to observe that I have not dug deep for illustrations, nor cast for them over a wide area. I have given them instances from matters that have incidentally presented themselves in the course of the debates in Council. It should not be a matter of surprise if I do not share the Hon’ble Mr. Buckley’s confidence that the Local Government will always be a safe and reliable guide and adviser to the Municipality.

“The Hon’ble Member in charge of the Bill has during the progress of the proceedings given us assurances, on more than one occasion, of the intentions of the Government which have not been specifically expressed in the Bill. I confess that I wish to see the intention clearly expressed in the terms under which duties have to be performed or obligations are created. I unreservedly accept the Hon’ble Member’s sincerity in the explanation he has given us, and I have no doubt left in my mind that under the present administration my hon’ble friend’s statements will be strictly respected, but I do not view the prospect under future administrations without hesitancy. I will give my reasons for my doubts, and I take my illustration from material that is incidentally presented in the letter of the 13th April, to which I have referred for so many illustrations. I refer to the educational grant. By the Act of 1888 grant for primary education was for the first time an object to which municipal funds were made applicable. The proposal to make it a charge was vigorously opposed on the ground that the funds available were considered not more than adequate for municipal needs, and it would have been defeated if Dr. Gurudas Bannerji, now Mr. Justice Bannerji, had not pointed out that in fact a grant was already allowed, and it would be a hardship to disallow after amalgamation what had been allowed before. But I will give Sir Henry Harrison’s own words in Council with regard to the question :—

‘The reason was that we found that in the Suburbs such expenditure was actually being incurred, there being a grant of Rs. 3,000 for the purpose. We thought it would be invidious to deprive the Suburbs of what they had hitherto received, the intention being merely that their rights should be preserved to them.’

“I will quote from the Chairman’s letter :—

‘12. I pass from the drainage question to the matter of devoting funds to primary education. In paragraph 14 of the Resolution of the Government of Bengal, it is stated that “the Lieutenant-Governor observes with surprise the reluctance of the Commissioners to make the allotment of Rs. 10,000, which has been suggested as the smallest sum which the

Commissioners can properly devote to a purpose which is universally recognised as holding a high place among the legitimate obligations of local authorities." Throughout the administration of Sir Charles Elliott the Bengal Government have treated the provision of primary education as an essential duty of the Corporation.

"And we have the curious incident of the Chairman of the Corporation sending to the Bengal Government a copy of the proceedings of the Bengal Council in support of the protest of the Corporation against a demand made by the Government! During the administration of Sir Stuart Bayley the intention expressed by Sir Henry Harrison was respected. In the administration of his successor the history of the subject had been lost, and an endeavour was made to throw off the burden that lay on the Government and place it on the shoulders of the Corporation. Opportunity was given for this, because the words of the Act were capable of the extension of the grant to other primary schools besides that for which it was intended to allow the grant. Have I not reason, then, for having pressed for clear specific words to express the exact intention of the Government?

"Sir, during the progress of these proceedings I have with deliberate and set purpose utilised illustration after illustration in support of my contentions in order to answer the charges which Mr. Risley has made against the Commissioners. There are many matters which ought to be looked at from the other side which have not had consideration given to them; and I desired to demonstrate how very necessary it was that there should have been an enquiry in the first instance to see where the mischief really lay before this Bill was framed and before any action was taken by the Local Government. My deliberate purpose has been to show that many cases of mischief have escaped consideration.

"The charge upon which not the least stress has been laid has been the appointment of Special Committees, and the Complaints Committee has been singled out for special animadversion. With regard to the Complaints Committee we have found that complaints have been made by the public which have never been attended to, we have found eight, nine and ten reminders which have not been heeded. I remember one instance where I found thirteen reminders and was not able to trace the original complaint which had been made. I have placed before the Council, with regard to the tramway depôt, the fact that even the complaints from Government were not attended to. I have shown with regard to the Town Hall that no less than Rs. 18,000 had been passed by the Engineer's Department for payment that ought not to have been allowed at all. I have shown how, in the Suburban Drainage Scheme, the Vice-Chairman did great service by disclosing a series of grave irregularities and neglect on the part of the Engineer's Department, all of which instances were substantiated on enquiry, with the result that the rate-payers were saved a large sum of money. I have shown how I personally disclosed that a most important part of the same drainage scheme was being executed without the sanction of Government as required by law, and the Chairman utterly oblivious of that fact. I have shown that the Executive are not to be trusted, and that it is not right to place them in an independent position.

"I say that all these matters that I have specifically referred to, and scores of instances of a like character, demanded that proper enquiry, and for the Commissioners to have allowed the administration to have proceeded in the ordinary routine and as if no investigation was required would have laid them open to the charge that they were neglecting their duties, and were not conscious of their responsibilities.

"I have challenged in as emphatic language as was open to me in this Council, in a previous stage of our proceedings, the truth and justice of the reasons for the charges that have been made, and I have most openly courted an enquiry with regard to them, but I have received no answer to what I have said. I claim to have displaced the burden of the charges that had been placed upon the shoulders of the Commissioners by statements of facts which there has been no attempt made to controvert. No such attempt could be successfully made, because my statements are supported by the direct authority of the records in the Municipal Office, and also in the offices of the



Local Government. Where, then, are we to look for the reasons for the alterations that are to be effected under the new law? Mr. Risley gave one of them to be to secure better mortality returns, and he disclosed his idea of how this was to be done by the provisions of the Bill as it was originally framed. On examination in Special Committee his idea had to be abandoned, and the new law has made no practical change. We have been told that there has been a breakdown in our conservancy. The subject has not escaped the attention of the Commissioners. No class of persons have suffered so much as those whom the Hindu Commissioners represent in the northern section of the town, and no class of Commissioners, as I am sure the Chairman will bear me out, have been so urgent as they have been for improvement in the conservancy, and the Chairman, I am sure, will support me that they have not been wanting in zeal and interest, and it is due to no fault of theirs, as an enquiry would show, if it is not more efficient. When Sir Alexander Mackenzie made his famous speech at Entally, all the faults, all the deficiencies which have been made so much of and given as reasons for this legislation, if they existed were known, yet it is evident, if only the question is examined, that the changes now enacted were not then, at that time, contemplated. The conclusion seems inevitable that the changes were determined upon first and the reasons for them put forward later, and possibly no one regrets his own connection with the subject more than my friend Mr. Risley himself, from whom I cannot withhold my sympathy altogether when he was placed in the position which he was compelled to occupy.

"I come now to the letter of the Government of India. I was taken aback when you, Sir, placed it in the same category as a Privy Council ruling, and as such told us that it should be regarded with the same respect and final. There is no doubt that the rulings of the Privy Council are regarded as being beyond controversy. Why is there the confidence in the High Courts and the Privy Council that the peoples of this country feel when they regard the action of the Executive as inscrutable, and sometimes with suspicion? It is that golden rule which has served to impart firmly their faith in the inviolable sense of the justice of British rule, and fixed their loyalty: the Privy Council are honoured and revered because of the absolute trust that they will most scrupulously uphold that golden rule—*Audi alteram partem*. I will not repeat what I have lately said in this connection, for it should be fresh in the minds of the members of the Council. Those who have blamed, those who have had charges levelled at them, those who in the interest of the public have opposed this enactment, have not been heard. I will go further and say the subject on which we have legislated has not been understood by responsible authorities by whose decision we have to abide. It is final because it has been treated as final, for the purposes of this legislation. I shall respect it because it has become the law, but I expect that the law cannot be continued unamended. I confess that I had hoped that there would have been some change in the Bill as an outcome of the letter which pointedly suggested the adaptation of the Bombay system. What is the difference between the two systems? The difference is that the executive is merged in the deliberative body in Bombay. The distinctive and fundamental idea of the present Bill is that the executive is kept wholly distinct from the deliberative body. If we are going to have the Bombay system adopted in any particular, surely that—its guiding principle—should be one which ought to be embodied; but it has not been regarded. Sir, in conclusion I would point to my own position in this matter. I joined the Municipality as a nominee of the Health Society, I was asked to join because of the rather prominent part I had taken in connection with the Ilbert Bill agitation. I had helped to bring into existence the Defence Association which is now a recognised political body, and when I went into the Corporation I went in with all the prejudices and opinions which I find so prevalent even now. But, Sir, when I had joined I found that it would not be fair to criticise those who were taking their part in the administration of the city unless I myself took my part also. I did so, and it certainly opened my eyes. I felt that I would not be justified in criticising in the way that I had before been so ready to do with imperfect or no knowledge. I am not here as an advocate for either Hindu or Mahammadan. I wish now to support that view which I believe will give the best administration to the city of Calcutta.

And why is there this difference of opinion between myself and those with whom I have been so long associated? The secret is that I have the knowledge and experience of municipal administration. The Hon'ble Mr. Oldham has told us that he has been a member of the Corporation for only one year. The Hon'ble Member in charge of the Bill had only a short experience in the Corporation. In the Corporation there has been no one so ready as I to oppose the introduction of political views. I am not accepted by the progressive Hindus as one of themselves. A supporter of mine in the election for this Council came to me, with tears in his eyes, telling me how he had been burnt in effigy because he had voted for me, and against one who is a leader in the Congress party. Throughout I have been opposed to the principles which are the leading principles of those who form the majority among the Hindus. But although I went to the Corporation as a political opponent from the first I met with the utmost consideration. There has never been a single Committee to which I have offered myself as a candidate to which I have not been elected. Sir, I am not here as an advocate of the Hindus, but I have seen how hard-working, busy men have come after a long day's work and entered into these public duties with zeal and efficiency, and I think I would be wanting in self-respect and every feeling of loyalty if I did not, when I find that the Local Government have joined those described by Mr. Risley as the worst informed as to the evils that exist and the least responsible as regards the possible remedies for them, joined in meting out condemnation to the Hindus, if I did not rise in my place and speak out. The work in opposition to the Bill has been hard indeed. While the task of the opposition has been severe to hopelessness, the load on the present Government, I think, is the heavier, because with them rests the responsibility of the measure. And my regret and sympathy for them is the greater since we now are closing the last page of the most inglorious chapter in the history of the Bengal Legislature."

The Hon'ble MR. OLDHAM said:—"Late as it is, I am glad of the opportunity of being able to correct the misapprehension into which the Hon'ble Member who has just sat down has fallen as regards my connection with the Corporation. He appears to think that I am the merest neophyte in regard to municipal matters. He says that I would know more about them if I had been longer with them, and that it is dangerous for me to speak about what I do not understand. It will be a surprise to my hon'ble friend to hear that I am, with the exception of the venerable Maharaja Sir Norendra Krishna, the very oldest member of the Corporation in this city. I was a member of the Municipality when my hon'ble friend was a school-boy at Harrow or a freshman at Oxford. My hon'ble friend looks incredulous. I will give him the date—it was May, 1867. I think it is probable that at that time my hon'ble friend was technically liable to be birched by Dr. Vaughan. I have kept up my connection with the Corporation ever since. During the presidency of Sir Henry Harrison my interest in the working of the Corporation was very keen, and from it was derived that appreciation of the Hindu Commissioners to which I have given expression in this Council; and it so continued until I renewed my connection with the Corporation in 1898. My attendance since I rejoined has been regular, and the last annual report shows that last year it has been as nearly as possible double that of my hon'ble friend, and this proportion has been maintained since; so that by arithmetical calculation, and if work is to be measured by attendances, I have been doing as much in a year and-a-half as my hon'ble friend would do for the Corporation in three years! But I can assure my hon'ble friend that the Commissioners are not an inscrutable body of men. Any one with ordinary powers of observation who had served an apprenticeship of three months with the Commissioners would have just as good an idea of their work and their idiosyncracies as if he had spent a lifetime among them, and for four months I sat with them and studied their work without opening my mouth at meeting, apart from the knowledge which I had gained previously. It is in the light of that knowledge that I will refer to the remarks of my hon'ble friend on those parts of my opening speech which appear to him to be inconsistent, or which he is unable to understand. The result of my observation of the Corporation during the long period of thirty-two years is that it has failed as a representative body. I cited as an instance



the ward in which I now live. That ward was formerly represented in the Corporation by two European Commissioners. Then there was only one European, and at the present moment there are none at all. So utterly aloof did business men and Englishmen generally hold themselves from the Corporation; so thoroughly did they manifest their disgust with it, and so entirely did the system of representation fail. That was the point of my remarks which my hon'ble friend found it so hard to understand. That was the reason why I referred to only two Muhammadan Commissioners having been elected in a ward in which the English vote is infinitely stronger than the Indian vote. When the Hon'ble Member was reading that part of his written speech which referred in some detail to the relations of the new General Committee to the new Corporation, I could not help thinking that he must surely have written that speech eighteen months ago, when people were indulging in the dismal prophecies and gloomy prognostications generated by the new Bill. He seemed to speak as if the new Corporation will meet only once a quarter."

The Hon'ble MR. APCAR said:—"I said the framers of the original Bill had correctly gauged the amount of work the Corporation would have to do when they laid down that they were to meet only four times a year."

The Hon'ble MR. OLDHAM said:—"It was that intention which was dilated on, and any one unacquainted with the facts could not have realised from my hon'ble friend's speech that the Corporation is to meet not only once a month, but as often as it likes."

The Hon'ble MR. APCAR said:—"My hon'ble friend will pardon me. My contention was that there really will not be more work for the Corporation to do than they can get through in four quarterly meetings."

The Hon'ble MR. OLDHAM said:—"That I understand to be the argument, but my hon'ble friend did dilate on the fact that the Corporation could only meet four times in the year, and that it could only take interest really in the annual budget, the annual report, and one or two other matters. Well, my conception of the functions of the new Corporation is entirely different. As I understand the matter, their duties will be far more extensive and will require many more than four meetings in the year. But at all events it is a fact that my hon'ble friend did not once allude to any of their other functions. He did not once allude to the fact that the Corporation has power to call for information from the General Committee. To any one who knows anything about the subject it is perfectly clear that it will be physically and morally possible for the Corporation to exercise an influence over the General Committee which will practically be control."

The Hon'ble MR. APCAR said:—"The Hon'ble Member is misrepresenting me. I did refer to that, but I said the General Committee have it entirely in their discretion to grant or withhold information."

The Hon'ble MR. OLDHAM said:—"I beg my hon'ble friend's pardon. I certainly did not hear those words. I did not hear that matter referred to at all. However that may be, my hon'ble friend certainly did not draw the picture which I am now drawing. That is that under the new law the Corporation will be able to obtain information from the General Committee, and that they will be able, sitting in solemn conclave with open doors in the light of day, and with all the responsibility which that position will give them, to denounce the General Committee and its works. Not that I believe that this is in the least likely to happen; I do not believe that it is possible. My hon'ble friend seems to forget that two-thirds of the members of the General Committee are to be elected by the Corporation, and if they behave in an obnoxious manner, their tenure of office will be extremely precarious, and they will be unseated. As a matter of fact, they will be the picked men of the Commissioners, and they will of course discuss with them the business of the General Committee, just as they discuss it at present. Well, my hon'ble friend has corrected me, and I am glad he has corrected me, because I was about to accuse him of a method

which I think he has pursued in another part of his speech, and of which I will give a more questionable instance; that is, of laying stress on one side of the case and entirely ignoring the other side. The other point I was going to touch upon, Sir, was when my hon'ble friend taunted Your Honour with the change of views which, under the ruling of the Government of India, Your Honour has been obliged to adopt in this Council with regard to the constitution clauses of the Bill. The particular point is one of the greatest interest to me, for, if it is not indiscreet of me to say so, I had the honour of being referred to by you, Sir, on the question of there being two elected Commissioners for each ward. At that time I was much impressed with the energy displayed by the Ward Commissioners in regard to the establishment of Vigilance Committees and segregation hospitals, and with the control they exercised over municipal underlings; and I did think the retention of two Commissioners for each of the twenty-five wards would be wise. These were also Your Honour's views, and in the November following Your Honour was pleased to express your affirmation of these views, and explained in this Council the opinion which the Hon'ble Member has quoted. But in August last Your Honour with unfeigned regret had to explain to the Council that you had been overruled on this point by a superior, a responsible, and an impartial authority—that of the Government of India. My hon'ble friend was well aware of this, but he ignored it, and persisted in his taunt, even after the explanation given by my hon'ble friend in charge of the Bill that this Council is a subordinate Legislature. My hon'ble friend said he doubted if it might not be ungracious in him to cast up this change of opinion. If he retains any doubt as to the ungraciousness of his action, I can solve it and assure him with the utmost confidence that it was ungracious, most ungracious, and I venture to think that when he comes forth from this Council into the general society in which he and I move, he will find it called by a far harder name."

The Hon'ble Mr. MACKENZIE said:—"May it please Your Honour, as the Member representing the interests of Commerce on this Council, I trust I may be permitted to offer my congratulations to the Hon'ble Mr. Baker, the Member in charge of the Bill, on his very able conduct of the measure. I consider, Sir, that he has done yeoman service to the town and to the State in the thorough and able manner in which he has piloted the Bill, first through two Select Committees and then in what I believe I am right in characterizing as the longest and most critical debate ever held in this Council Chamber. The Hon'ble Member in the course of the debate has more than once disclaimed being a lawyer, but I am sure that the learned Hon'ble Members of this Council who are also members of that noble profession—the law—will agree with me in saying that the legal acumen displayed by the Hon'ble Member in charge belies that protestation. I shall not attempt to slay the slain by dwelling upon the absolute necessity of a reform in the municipal government of Calcutta. It is sufficient for me that the Governments of Bengal and of India, and the Secretary of State, have admitted this to the full, and that the demand that the European community have been making for years is at last being listened to. We of the commercial and trading community were perfectly satisfied with the Bill drawn up by the late Lieutenant-Governor, after full discussion with those whom we represent. We were as conscious as he was that the scheme which it embodied was not altogether symmetrical, or, if the phrase be preferred, 'logical,' but it was eminently workable, and provided the city with all that is required in the shape of a working Chairman, backed by a Council on which interests were represented and not *races*. I am free to admit that some of us thought it dealt too tenderly with the election sham; but when the Bill was introduced the object was to create, without undue delay, a municipal authority with power to cleanse the town effectually, in the hope of keeping away the plague. It was doubtless felt by its author that to burden the measure with a radical reform of the constitution of the main municipal body would open the door to endless discussion and controversy. I cannot help thinking, Sir (in fact we have evidence of the fact), that the native gentlemen who so strongly opposed the Bill, as originally framed, must now be feeling somewhat sorry for themselves. It was intended by that Bill to confine the work of the Commissioners in meeting to a *quasi*-legislative function, which alone a large body of



that class was capable of performing, and to relieve them of executive responsibilities, which are best exercised by one man or by a small carefully chosen Town Council. The Select Committee, however, saw fit to restore to the main body very much of the executive control which the experience of the past has shown them to be incapable of exercising wisely, and that has opened the door to a complete reconsideration of the composition of that body. If the main body of the Commissioners is to control the executive, it is clear that it must itself be so constituted as to afford some guarantee that that control will be properly exercised. From that point of view the proposals of the Government of India have my support, but even with the reform in the constitution arranged, it is essential that the everyday work of the city should be left to the Chairman, as it is in Bombay to the Municipal Commissioner. I consider it essential that the Chairman, being responsible for this, should have a free hand in the selection of his subordinate staff. They should look to him alone for orders and promotion. We should thus get rid of jobbery of subordinate appointments, which it is notable has characterised the present *regime*. Inspectors of nuisances, for instance, must be chosen, not because of their high caste or their relationship to Municipal Commissioners, but be men ready to do their work completely and honestly, and to carry out the orders of the Chairman and the Executive without fear or favour. I am glad, Sir, that the Government of India has admitted that it has a stake in Calcutta, and is responsible in the end for its good government. We all know how much has yet to be done to open out congested areas and effect structural reforms. If the Corporation is to be left to carry out all this unaided, either the reforms will be unduly delayed or the burden of local taxation will become intolerable. I trust, Sir, that the Supreme Government will recognise that taxation is already as high as can be borne, and will make over to the town other sources of income such as Bombay enjoys, or lend substantial aid in other ways. It has been argued by an Hon'ble Member that 'the active opposition of the people seals the fate of the measure, and must go a great way to mar whatever good its framers may have anticipated from it.' But, Sir, what is meant by 'the people?' They care only for reduction of taxation. 'The people' and 'the Commissioners' are *not* the same thing. In one of the notes of dissent it is suggested that 'the Bill will distinctly reduce within narrower limits the power of the executive and make it *irresponsible*. Under the existing law the *Chairman exercises almost all the powers which are vested in the Corporation.*'

"In regard to this, Sir, I would only say that under the present system no one is responsible. If the Chairman has final authority, then he *is* responsible. If he has power only subject to appeal, then the appellate authority is responsible. By giving a general appeal you whittle away all executive responsibility. No officer of the Corporation will venture to do anything disapproved of by any Commissioner, or by anyone who can get at a Commissioner.

"When the Bombay Act (III of 1872) was under discussion Mr. Mangal Das proposed to give a right of appeal to the Town Council against every act of the Municipal Commissioner. The motion was lost, Sir Andrew Scoble, then Advocate-General of Bombay, opposing it as rendering the Act utterly impracticable (see Bombay Legal Proceedings of 1872, pages 319—22).

"As to the Chairman exercising all the powers of the Corporation, how *can* he act vigorously when his actions are liable to be upset at any moment?

"Then, Sir, in the matter of European and commercial representation, we have had it well rubbed into us in the several Notes of Dissent what a very insignificant place these interests occupy. In one of these Notes we are told that 'the Statement of Objects and Reasons makes a distinction between the interests of trade and those of the Government,' but that, 'as a matter of fact, the two interests are identical.'

"This, Sir, is news to me, and I should like to ask the writer whether trade has at any time merely followed the lead of Government, and whether trade interest would press for a license tax on its own business.

"If it means that the interests are identical so far as having a clean town and a healthy and properly conserved town is concerned, then I am at one with the writer.

"Further, a distinction is made between trade interests and 'the interests of the rate-payers.' But does not trade pay rates? And does it not pay license tax as well? Chapter XIV and Schedule III (*now* II) of the Act answers these questions completely.

"In a statement furnished in one of the Notes of Dissent it is shown that while Europeans own 12·6 per cent. of the assessable property in town, and pay 18·3 per cent. of the total rate levied, the Hindus own 60·4 per cent. and pay 59·5 of the rate; and I may add that while the former number 5·6 of the General Committee, the latter (the Hindus) have, or till lately had, 66·6 of the General Committee! But, Sir, this is not a fair representation of the monetary stake of Europeans, seeing that under proviso (ii) to section 148A (*now* 151) of the Bill the value of machinery is *excluded* from the assessment. Is capital irretrievably sunk in Calcutta to count for nothing? And Calcutta as a trade centre represents the important interests of the jute and tea industries and the whole export trade of Northern India. What is Hindu property against all this?

"Further, I say that the statement is not a fair representation of the contributions of commerce to the funds of the Corporation, in so far as no account is taken of the amount paid as *license tax*, which is *not* included in the consolidated rate, and which in itself is more than half the amount stated, to say nothing of the other heads of taxation more largely contributed to by commerce than by other interests. Indirectly commerce pays to the Corporation the rates levied on the Port Commissioners' property in the Docks, &c. Were it not for commerce there would be no Port Commissioners and no rates payable by them; in fact, commerce practically pays the rates on all the lands and buildings in the town, for but for commerce the value of these would dwindle away to nothing.

"So much then, Sir, for the attempts on the part of dissenting Hon'ble Members to belittle the interests of commerce, and the absolutely unfounded statement that 'the difference to them being inappreciable, they are not concerned whether the rates are at 25 per cent. or 15 per cent.'

"Then, Sir, in the Notes of Dissent we are threatened with 'consequences,' 'discontent' and friction. What the 'consequences' may be, I think we may look forward to with equanimity; that the discontent will disappear in time is only reasonable to suppose.

"If there be 'friction,' it can only arise out of *faction*—the spirit of a section which would wreck the common interests, because it finds its own class deposed, which will not work with others because its own self-esteem has been injured.

"Personally I have a higher opinion of the sound common sense of the better class of native Commissioners than to attach importance to these warnings, and I would say to them—let us agree to accept things as they are, and with one object in view, *viz.*, the good of the land we live in.

"In this connection, Sir, I would venture to pay a very sincere, and in my opinion, and I feel sure in the opinion of the Council, a well-merited, tribute of praise to the Hon'ble Members who have opposed the measure, for the uniform good temper displayed by them throughout the protracted debate. I desire to specially mention my hon'ble friend Babu Surendranath Banerjee, on whom the principal share of the burden has fallen. Those whose cause he has been pleading have good reason to be proud of their advocate. *No item* essential to that cause, however small, has escaped his notice, or failed to elicit his strenuous support. He has had to fight a losing battle, and he has shown that most enviable of all qualities, *viz.*, that of being able to fight without loss of temper and with entire absence of personalities, veiled insinuations, and assumed monopoly of knowledge indulged in by another Member of the opposition. This fact, I think, augurs well for the hope I have expressed, that we shall yet see the *best* of the native Commissioners, who have recently felt it incumbent on them to withdraw, returning to share the labours (and I would add parenthetically the *jees*) with those on whom the work of municipal administration under the new Bill may devolve.

"With these remarks, Sir, I beg to record my vote in favour of the Bill being passed."



The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIRPUR, said:—"Your Honour, I think no measure of this Council ever excited so much criticism as the one which we are discussing to-day. There is not a single section of the native community left which has not strongly opposed this Bill. I agree in the main with the principles enunciated by Your Honour's predecessor in office, Sir Alexander Mackenzie, from the presidential chair in this Council prior to and after the introduction of this measure, that the every-day work of the city should be left in the Chairman's hands, and that in cases of emergency, such as the outbreak of plague, he should have larger powers to deal with them, and that there should be a small executive body interposing between the Chairman and the Corporation to deal with such matters which cannot properly be discussed by a large body, and which are at the same time so important as not to be left to the Chairman alone for disposal, and that the three chief interests in Calcutta, *i.e.*, the rate-payers, men of commerce, and the Government, should be represented in it. With Your Honour's permission I shall read extracts from the speeches of Sir Alexander Mackenzie. On 26th February, 1898, he said:—

'The Bill is a large and, I hope, very complete measure, and deals with all branches of the administration of the city. It leaves untouched the number of Commissioners and the existing methods of electing and appointing them. While it reforms the procedure for election, which is admitted by everyone to be defective, it does not alter the franchise, nor does it reconstruct the present arrangement of wards. It provides the Corporation with an efficient executive, and interposes between the main body of the Commissioners and the Chairman a working Committee of twelve elected and appointed, so as to represent the three chief interests in Calcutta—the Government, the commercial community and the residents. \* \* \* The General Committee, as the working body of the Municipality, stands between the deliberative and executive authorities, and deals with those matters which by their nature are ill-adapted for discussion by the Corporation, and yet are too important to be left to be disposed of by the Chairman alone. Power is taken for the General Committee to appoint Sub-Committees, on which I hope to see all the real workers among the Commissioners utilized.'

"And again on the 4th April of the same year, after the introduction of this measure in the Council, he said:—

'My theory of the Bill, the cardinal principle of the Bill, the essence of it, is that we must leave the ordinary every-day work of the city in one man's hands. \* \* \* If that is once secured, all the rest appears to be a matter of arrangement and detail.'

"But, Sir, I find the Bill is not confined within the said principles, but has gone far beyond it. Many revolutionary changes have been introduced in it. As I am not a resident of Calcutta, and have no personal experience of Calcutta municipal affairs, I shall deal only with the general principles of the Bill. I find unlimited powers have been given to the Chairman, who is not made responsible to anybody, and that large powers given to the General Committee by depriving the Corporation. The powers which were formerly reserved for the General Committee in the Bill as was originally revised by the Select Committee, and could not then be given to the Corporation composed of a large body of 75 Commissioners, could with propriety have been given to the Corporation as it will now be constituted. Sir, under orders of the Government of India dated 17th June, the number of the elected Commissioners in the Corporation was reduced on the model of the Bombay system. We all appealed that, if the Bombay system was to be adopted at all, it should be adopted in its entirety, as it was not fair to accept the most stringent parts of the law, leaving aside the most popular portions of it. And the Government of India also said in the 16th paragraph of their Despatch they 'are inclined to think that in this suggestion and in a mere close adaptation of the Bombay model might be found the solution for which they are seeking.'

"So, Sir, it would not have been against the principles laid down by the Government of India if a few seats were allowed to other influential representative bodies of Calcutta. I brought forward an amendment to that effect, but it was rejected by the Council on the very day I could not unfortunately attend owing to my illness. I am sure, if this would have been accepted, it would have to a certain extent pacified the popular feeling in the matter, and would have been in perfect harmony with the Bombay system. In the Corporation as now constituted the rate-payers, *i.e.*, the native element, are placed in minority, as the number of

the elected Commissioners is 25; whereas the number of the appointed Commissioners, including the Chairman, is 26; and so, Sir, the broad principles of local self-government have been contravened. Then, Sir, as to the constitution of the General Committee which is vested with all the real powers in the municipal affairs, the Government of India desired that two-thirds of the members of the said Committee should be elected by the Corporation; but, as it now stands, I find the rate-payers to be in a hopeless minority. Not only this, Sir, but the non-official majority, which was in the Bill originally revised by the Select Committee, has also practically been done away with. The interests of the rate-payers in the town are great; they constitute the bulk of the population and contribute the bulk of the municipal taxes, so in my humble opinion they should have a larger share of representation in it; and I do not think it would have been against the principles laid down by the said Government if six seats in the said Committee had been allowed to the representatives of the rate-payers. Then, as to the representation of commerce, I find that four members of the said Committee, who were to be elected by members representing commerce, will now be elected not by them alone but by the Government appointees also; and as the number of the Government appointees in the Corporation is 15, and whereas the number of Commissioners to be elected by the Commercial bodies is 10, and if they vote to the full strength of their respective constituent elements, it is evident that the Government appointees will be able to secure those four seats also; so, practically speaking, no independent representation is allowed to that body, which was one of the fundamental principles of this Bill, and thereby the non-official majority in the General Committee had been practically done away with. Sir, I further beg to submit that the General Committee is again based on an illogical solution which the Government of India was so anxious to avoid, as the representatives of the rate-payers form half the bulk of the Corporation; whereas in the General Committee they bear only one-third proportion. I am not yet fully convinced if the Government of India ever contemplated to bring about such a change in the General Committee. To my mind, Sir, it appears contrary. I still think that the Government of India thought they were making some concession in that respect. If they would have contemplated such a change, they would have never expected that their decisions in the matter would be a truce to all dissensions. I shall quote the exact words which the Government of India said in that respect:—

‘The Government of India, however, who in framing these proposals have been actuated by a sincere desire to promote harmony equally with good government in the future, entertain the hope that there may, henceforward, be a truce to such dissension, and that the Bill, as remodelled, may be accepted by all classes in the spirit in which its modification has been discussed and put forward by them.’

“Sir, whatever be the case, the Bill as it now stands is certainly worse than what was originally introduced. I must admit that many improvements have been made in other portions of the Bill though not to our entire expectations, and many contentious matters have been removed, such as those relating to the registration of deaths and cremation of dead bodies, for which we are extremely thankful. I consulted not only many leading landholders who reside in Calcutta, and who are interested in the matter, but also some of them who have no interest here, and I found all of them opposed to this Bill. So, as a representative of the landholders, I think it is my duty to oppose the Bill in its present form. I shall be wanting, Sir, in my duty if I fail to acknowledge with gratitude some concession which Your Honour has made in some important parts of the Bill while it was under discussion, and we are also thankful to my hon’ble friend, the Member in charge of the Bill, for the courtesy he has shown all throughout the discussion of such an important measure. With these few observations I beg most respectfully to oppose the motion.”

The Hon’ble BABU BAIKANTO NATH SEN said:—“The passage of this Bill through the Council is irresistible, however strong the current of public opinion may be, and by public opinion I mean popular opinion. However strong that public opinion might have been—and it has been strong enough in all consequence—it has not, as we know, been strong enough to cause a diversion or



deviation in the course of this Bill. If I had not been a new Member, and if I had had to take any share in the debates and discussions on the Bill at its earlier stages, perhaps I would have kept quiet and would have given a silent vote, simply entering my protest; but, as it is, I feel it my duty to make some observations on this occasion.

"It has been observed by the Hon'ble Member in charge of the Bill that at this stage, when the Bill in its present shape has been discussed in eleven sittings, that it would be stultifying ourselves to suggest that it may be thrown out. Undoubtedly it would stultify the authors of the Bill, but not those who have opposed the Bill from the beginning to this stage. It is in this position that we stand, and it is simply to justify the conduct that I am taking in this Bill, the attitude that I feel myself compelled to take, that I beg to offer a few observations by way of explanation. Now, Sir, the Hon'ble Member in charge of the Bill has observed that this Bill is a better and stronger one than the one which was originally introduced. He has further observed that three co-ordinate authorities have been created; that the want of proportion between the Corporation and the General Committee—that illogically—has now been removed; that there is a proper and true representation of the commercial community in the Corporation as well as in the General Committee; that the central control power has been secured for the Government; that good building regulations have been introduced; that beneficial measures regarding water supply, conservancy, drainage and the registration of the births and deaths have all been introduced by this Bill. On the other hand, the champions of the Corporation, the Hon'ble Mr. Apcar and the Hon'ble Babu Surendranath Banerjee, have also drawn Your Honour's attention to the other aspect of the case. The beautiful and recommendatory features have been put forward in lucid and condensed language by the Hon'ble Member in charge of the Bill with his usual ability. On the other hand, the Members for the Corporation have attempted to show how the existing Corporation is being deprived of its existing powers, how the Corporation becomes simply a consultative body having no voice whatever in executive functions and in the real administration of municipal affairs. It is not for me, Sir, to go over these grounds, nor is it necessary for me, a non-resident of Calcutta as I am, to go into the details, especially as these details and all these matters have been discussed during these eleven sittings. I do not propose therefore to go into these questions. It has been very properly observed by the Hon'ble Member in charge of the Bill that this Bill has been attempted to be introduced as an efficacious measure which will improve the health of Calcutta, it will improve it in sanitary respects, and time alone will prove whether it will be successful or not. We have got two sets of prophets here: one set of prophets prophesy that it will be a success; on the other hand, there are six others present who forecast the other way. No doubt, time will certainly decide whether the majority or the poor minority have been making the prophecy which is correct or not. I venture to think, with due deference to the majority, that the minority will turn out hereafter to have made the correct prophesy.

"Now, Sir, I have been told to-day that this Council is subordinate to the Supreme Council. I was all this time under the hallucination that this Council has freedom of action so far as provincial legislative measures are concerned; that this Council has a free hand. Now I am told that it is subordinate to the Supreme Council in matters of legislation. If it is so in that case, accepting that the Supreme Government has authority to direct this Council in legislative measures, that it has authority to indicate the line of legislation and formulate to us the principles of legislation, and accepting also Your Honour's decision that we cannot go beyond or behind the Government of India's Despatch, I beg still to contend that we have a right to discuss whether the principles formulated and the recommendations which have been made by the Supreme Government have been properly construed, and whether effect has been given, to the intentions of the Government of India by the Select Committee and by this Council. I will touch only and confine myself to one point. When the Bill after it evolved from the first Select Committee and went up to the Government of India, at that time 75 Commissioners were to have constituted the Corporation and 12 the General Committee; and the General

Committee were to be constituted in three equal component parts from three different quarters—the Corporation, the mercantile community and the Government. Now there was a great deal of excitement in consequence of that; public meetings were held; platform speeches were made; the Press discussed; and memorials were forwarded to His Excellency in Council, and then His Excellency decided that while there was illogicality in form; therefore the number of the Corporation should be reduced to 50. A hope was expressed by the Government of India that there be a truce to dissension. Now we are about to attribute earnestness to what was expressed by the Government of India in a serious matter like this. That is the position? Did the Government of India mean that, well you native rate-payers of Calcutta, when it was proposed that you should get 75 Commissioners for the Corporation and that the constitution should be in this way, you objected to this; there is want of harmony amongst you; well I want to stop all this; I want to please you all, and I wish that there should be a truce to all this dissension. What do I do? I say I will reduce the number from 75 to 50. I do that. Then further what do I do? I send back the case for the reconsideration of the Government of Bengal and for the reconsideration by this Council, with the hope that the Government of Bengal will doubtless consider the matter. The Government of India think that a General Committee, thoroughly representative both of the principal interests involved and of the larger Corporation, and qualified to discharge the important duties which it is proposed to place upon its shoulders, might be constituted by the nomination, as in Bombay, of one-third of its total number of 12 members by the Government and by the election of the remaining two-thirds by the Corporation itself. The circumstances of Bombay, however, differ materially from those of Calcutta, in one respect, *viz.*, in the numbers and strength of various communities that compose the total population of the city, and are represented in the Municipal body. The Bengal Government will doubtless, therefore, find it desirable to suggest some plan that will secure to that proportion (two-thirds) of the General Committee which is to be elected by the entire Corporation, a strictly fair and proportionate representation of the constituent elements of the electoral body. Otherwise it might be possible for either party, in the chances of voting, by a bare numerical majority, to swamp the General Committee, and to secure that the entire two-third proportion should be of their own political complexion or class.

“The Government of India then curtail the number from 75 to 50, and then it was suggested that the Government of Bengal should find some method by which there would be a true and fair representation in the General Committee. The rate-payers were thus attempted to be satisfied. The communication of the Government of India seemed to be clear that, while the number 75 was reduced to 50, there would be given a large proportion in the General Committee; otherwise it would be a sort of practical joke, and we precluded from attributing such a thing to the Government of India. The Government of India was certainly earnest; they wanted to give us something, and I submit that this would certainly have been, if, leaving aside the number 4 to be appointed by Government, of the remaining two-thirds in the General Committee these members had been elected by the Ward Commissioners and if two only by the commercial community, and that would have maintained the proportion in respect of the Corporation. The Corporation consisting of 25 out of 50, 25 by Ward Commissioners, half the number, half in the General Committee, 6 appointed by Government, 15 appointed Commissioners in the Corporation, almost one-third, one-third also in the Corporation and the other 10 in the Corporation, one-fifth in the General Committee, 2 would have been the fair proportion. There would have been therefore in that case a proportionate correspondence in the constituent elements of the two bodies. I venture to think, therefore, that it was really the desire of the Government of India that while reducing the members 75 to 50 of the General Corporation, it was the clear intention of the Government of India, in order that there might be a truce to all dissension, that the people might be satisfied, that there might be harmony among them, that there should be a greater representation in the General Committee. I venture, therefore, to submit that the Select Committee has misinterpreted and misconstrued this despatch of the Government of India,



and that this Council too has confirmed the action of the Select Committee in accepting the numbers proposed by the Select Committee in the Bill.

"Now, Sir, I need only say a few words more. It has been observed by the Hon'ble Member in charge of the Bill that local self-government is not being destroyed at all and there has been a change only in form. I submit, Sir, it is not in the form, but in the change in framework. There is a Corporation which is representative central power now; it will now be deprived of all its powers. There are three co-ordinate authorities created. The Chairman, let him be vested with certain executive functions, even sitting over the Corporation he might be permitted, his powers might be strengthened, but to create another body which will not be like the body we have now. local self-government is practically virtually being destroyed in Calcutta. Sir, the operation of this Bill when it is passed will not be confined to Calcutta, but I beg to submit that it will have its effect all over the Province. We come from the mufassal; we are not quite so much or directly concerned with the operation of the Act at Calcutta, but apprehensions are being entertained by the people living in the mufassal, a disappointment which has been caused by the formulation of the principles by the Government of India in their despatch. The alarm which has been caused is being shared by the people residing in the mufassal. They fear that under the garb of reform the pruning knife hand will be extended in a short time in the mufassal. That is a sort of thing which is very undesirable. The contentment of the people constitutes one of the pillars of the State. If there is contentment throughout the country, nothing need be feared about the internal disturbances. The contentment of the Bill might be sought after, but this Bill, I fear, if passed into law, will create discontent in the whole Provinces. With these remarks I beg to enter my humble, respectful, and yet firm and emphatic protest against the passing of this Bill."

The Hon'ble Mr. SPINK said:—"I have much pleasure in supporting the motion of the Hon'ble Member in charge of the Bill, that the Bill as amended be passed. I very gladly pay a tribute to the excellent work performed by the learned Secretary to the Council in connection with this measure. I congratulate Your Honour and the Members of this Council that the final stage of this exhaustive and prolonged debate has now reached its final stage, and the general public will, I am sure, alike share the relief when debate and agitation on this vexed question have been set at rest. I do not propose, Sir, to detain this Council with any lengthy speech after the most able and exhaustive exposition by the Hon'ble Member in charge, for it seems to me that the most ardent debater and the most interested listener must have had enough lately to satisfy the most hungry cravings!

"Well, Sir, my hon'ble friend Babu Surendranath Banerjee has frequently told us during this debate that he is no prophet, and yet, Sir, scarcely a day has passed in which he has not foretold the saddest prospects for Calcutta under this new Bill; and as for the Bill itself, I shall not be exaggerating if I say that he has foretold its doom.

"I am happy to say that, notwithstanding all that I have heard on the other side, and I have listened with the greatest attention and interest to all that the opponents of the Bill have had to say—and I am bound to add that their case has been conducted with the greatest ability and their arguments pressed with no little eloquence and insistence—I am still of the same opinion which I at first entertained, *viz.*, that this Bill is the best solution of the difficult problem of improving the municipal Government of Calcutta. No stone has been left unturned by the opposition in their endeavour to prove that no case has been made ~~out~~ for changing the law, and here again, I fear, I cannot agree. I am pleased to endorse all that fell from the Hon'ble Mr. Baker in regard to local self-government.

"We have been frequently told that this Bill lays the axe at the root of the broad principles of local self-government. Well, Sir, I am prepared to go with the Hon'ble Member who has told us this so far, that it does lay the axe at the root of local self-government by a single section of the community, and it is needless to say that I refer to the Hindu section; they appear, Sir, to appreciate local self-government in a high degree, so much

so that they not only want to govern themselves, but they want to govern every one else, and they have been allowed to do so up to the present time; but of course a time has come when this could no longer go on. To my mind, Sir, it has been clearly shown that a change in the system has become necessary. Had the Government proceeded with more measured steps in the first instance when delegating their power to the local body, perhaps so great a change as embodied in the Bill would not now have been found to be necessary. Be that as it may, the elective system has been fully tried, and it has failed in its original object to provide Calcutta with a representative local governing body.

"I believe when the original measure was passed a distinguished leader of the Indian community—I refer to Babu Kristo Dass Pal—gave it as his opinion that it was not at all to be regarded as a consequence of the system which was about to come into operation that a Hindu majority would be returned. How utterly he failed to gauge the probabilities of the measure has been conclusively shown by subsequent events; the system completely failed, as everybody knows, to return a mixed representative body, and, if for no other reason, it is certainly necessary for this, to change the law, in order that every interest in the capital shall be adequately represented in the Corporation. The provisions in the Bill will certainly do this, and it cannot be argued that a measure that distributes the privileges and powers associated with municipal government to all sections of the community strikes a blow at the foundations of local self-government. I maintain, Sir, that it widens the broad principles of local self-government, and for that reason I welcome this measure.

"It requires no words of mine, Sir, to demonstrate what commerce and trade have done for Calcutta; it is obvious to all, and has been denied by none, and it has been frequently referred to by Hon'ble Members in this Council; but as a member of the trading community of Calcutta I feel sure that I may be pardoned if I have regarded the situation throughout the consideration of the Bill more from a commercial than a sentimental point of view. I have nothing to say against sentiment, Sir, for it pervades our daily life, and happily so; but in a consideration like this I think we should not allow it to have too great an influence upon us. My friend the Hon'ble Babu Surendranath Banerjee may, perhaps, disagree with me, because he has so frequently pressed the sentimental side of the question in his arguments, and when listening to them I must confess that it has come to me in the light of a revelation that so much sentiment in such matters does lie hidden in the Hindu breast. Well, Sir, the commercial community of Calcutta had a rude awakening when plague visited its doors. Never before, I may safely say, was the fact so convincingly, and with such force and suddenness, brought home to it, of how intimately the interests, I may say without exaggeration, the very safety and existence of its vast commerce and trade, are associated with the good government and sanitary conditions of this great port; and because of this, Sir, it has become necessary that the commercial interests involved shall have a voice in municipal matters. For reasons already explained, this has not been possible under the existing law, and the provisions embodied in the Bill will, in my humble opinion, fully meet the case.

"The holding aloof of the European community from the Corporation in the past has been a favourite theme of the opposition. Whatever justification there may have been for it has, I submit, been fully explained away; and under altered conditions, what apathy, if any, there may have been, will cease to exist. As far as the members of the Calcutta Trades Association, which Association I have the honour to represent in this Council, are concerned, I think that I may claim that in whatever degree blame may attach to other members of the European community, members of the Calcutta Trades Association should be completely absolved of any. My hon'ble friend Babu Surendranath Banerjee was good enough to refer, in complimentary terms, to the good work done and devotion shown to the interests of the city by the members of that Association from the earliest days of the Justices up to the present time, and I appreciated very much his acknowledgments made in his usual graceful language, and likewise those of my hon'ble friend Mr. Apear—although, perhaps, his remarks have not been quite so complimentary to myself—coming as they did from two of the



oldest and most devoted members of the Corporation. Well, Sir, I am prepared to pledge myself to the assurance that as in the past, so in the future, will members of the Calcutta Trades Association be ready and willing to give their time and services to the work of the Corporation, and, if I mistake not, so will my hon'ble friend Mr. Mackenzie as regards members of the Chamber of Commerce. My hon'ble friends in the opposition need have no apprehension that the operations of the Bill will be allowed to fail for want of support from the commercial community of Calcutta. And, Sir, I hope it may not be considered presumptuous on my part if I say that, in my opinion, a larger infusion of this element into the Corporation should be of great benefit to it. The co-operation of sound men of business, who are in the habit of dealing daily with great commercial problems, such as the promotion and carrying out of large schemes, both of a public and private nature, entering into contracts, scrutinizing estimates, dealing with accounts and general office administration; with the other elements which make up the Corporation, should assist immeasurably in carrying out the work of the Corporation in an effective and prompt way.

"I do not wish it to be supposed, Sir, that I underrate the value of the services which have been so liberally and loyally given by the Indian members to the Corporation up to the present day, among whom are to be found a large number of eminent lawyers and journalists; but I must confess, and I say it with the greatest deference to that learned profession, that in my experience I have invariably found that to introduce law means to introduce delay and to hang up your scheme indefinitely; and I do believe that if the commercial progress of the Empire rested in the hands of lawyers we should soon come to a standstill. My hon'ble friend Babu Surendranath Banerjee and his colleagues have once or twice said that they would welcome a larger number of the European community into the Corporation, and in face of this he had an amendment on the agenda paper which, if it had been carried, would have excluded the Calcutta Trades Association! I am bound to say, Sir, and it did credit to his better judgment, that he soon produced an alternative amendment which did not seek to disturb the commercial element; and I attribute the reason for his so quickly realizing his mistake to the fact that he recognized how much the security of the accumulated wealth of his co-religionists in Calcutta depends upon the progress and stability of the commerce and trade of this port.

"I do not propose, Sir, to discuss the details of the Bill; they have been carefully thought out and most carefully considered both in the Select Committee and in this Council, and every effort has been made in the provisions of the Bill to safeguard the interests of every section of the community, rich and poor, while promoting those of the Municipality. Many concessions were made in Select Committee to meet the views of the representatives of the Indian community, their arguments have had a sympathetic hearing, and I believe it is admitted by them that the Bill, from their point of view, emerged from the Select Committee in an improved form. The Select Committee certainly did much to elevate the position of the Corporation and to ameliorate the condition of the poorer classes.

"I strongly approve, Sir, of the principle of co-ordinate authorities; the work of the Municipality should be got through much more smoothly and quickly and without unnecessary and frequent interference, one authority with another.

"I do hope that, as soon as this Bill becomes law, that one of the first things the new Corporation will do will be to put its house in order, in other words, to scour out and reorganize the whole of its establishments, and to appoint responsible officers in each department, even if it necessitates some extra expenditure; for I feel convinced that, if this is done, great economies will eventually be effected and great improvement in the collections made.

"I quite appreciate the fact that the Corporation requires more income, and I hope some means may be devised to improve its revenue without inflicting undue hardship on any one section of the community. It is a difficult question and requires careful consideration, it is one which may be left with all confidence in the hands of the Local Government.

"The Bill as amended, Sir, as the Hon'ble Member in charge has said, is the result of the most searching investigation and revision, the principles of which were adopted in the first instance after mature consideration and based upon a wide knowledge of facts by your distinguished predecessor and subsequently accepted by Your Honour as sound; it has received the approval of the Government of India, and has been confirmed by the Secretary of State for India; it has the approval of a majority of the Select Committee and a majority of this Council; and I have much pleasure, as I said before, in supporting the motion before the Council that the Bill as amended be passed.

"Only one word before I finish—I hope I may be permitted to give expression to the hope that when the time arrives for this Bill to come into force that all loyal citizens, whether European or Indian, will come forward and unite to assist Your Honour's Government to make this new law the success which it ought, and which I firmly believe it will, be."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir, I do not use the language of mere convention when I say that my first words on this occasion must be expressive of thanks to Your Honour and to my hon'ble colleagues for the patient and attentive hearing accorded to me during a debate which has now lasted for over eleven days. During this period it has been my duty to criticize, without reserve, various provisions of this Bill; but I shall not conceal my regret that the time at my disposal, since I have had the honour of a seat in this Council, has not been sufficient to enable me to bestow upon every single provision of the Bill that searching and exhaustive criticism which I am accustomed to bestow upon whatever passes through my hands in another place. Nor shall I conceal my disappointment that my criticisms have not commended themselves to this Council in a larger measure than has actually been the case; with all respect for the judgment of the majority, and in spite of the adverse decision recorded, some of these criticisms still appear to me to be so reasonable that but for what fell from the Hon'ble Member in charge of the Bill this morning, I would be unwilling to believe that they would have been equally ineffectual, even if they had been advanced by an abler advocate gifted with powers of more persuasive eloquence.

"I have no desire, Sir, to review at this stage the history and fortunes of this legislation. I will not stop even for a moment to enquire whether it was wise, whether it was statesmanlike, for any Government to introduce into the Council chamber a measure of such magnitude, intended to mutilate, if not to destroy, the form of municipal government which has prevailed in the capital of the Indian Empire for well nigh a quarter of a century, till the facts had been ascertained by an independent commission of enquiry in whose decision the public might repose implicit confidence. I will not pause for a moment to enquire whether it was wise, whether it was politic, for any Government to undertake a measure of this character upon an alleged but unproved ground of corruption, which was first publicly formulated in a State document more than twelve months after the Bill had been introduced into the Council. These may or may not be appropriate subjects of discussion now. But I take it, it is perfectly legitimate at this stage to consider whether the Bill as amended, which in a few moments will become the law of the land, does or does not make adequate provision for the removal of the evils to remedy which the Bill was avowedly introduced. One of these so-called evils has been described to be the complete failure of the elective system to secure adequate representation even of the different interests existing in the native city; or, to put it in a more practical and more intelligible form, one of the avowed objects of the Bill was—I am quoting the language used by Hon'ble Members in this Council—one of the avowed objects of the Bill was to destroy the dominance of the educated Hindu in the Calcutta Corporation. That object, Sir, I mournfully confess, has been adequately secured by the provisions of this Bill; and I say, with all the emphasis I can command, that the Bill, in so far as it has attained this object, has my unqualified disapproval; in this respect it has not, and it cannot have, the smallest measure of my sympathy. But, Sir, it is instructive to enquire, what have you substituted for the dominance of the educated Hindu? You have not satisfied yourself with replacing it by the dominance of the mercantile European or the progressive Muhammadan; but you have replaced it by



the irresponsible executive. The fundamental principle of the Bill is the creation of three co-ordinate authorities—the Corporation for purposes of deliberation, the Chairman for purposes of executive government, and interposed between the two, a small General Committee, which in some respects is subordinate to the Corporation, which in others is superior to the Chairman and is sometimes independent of both. All this, Sir, looks very nice on paper, but by virtue of the power of unlimited delegation of authority which the Chairman possesses under the law, and against which it was my duty to enter my most emphatic but ineffectual protest, you have not three, but an unlimited number of co-ordinate authorities. I have no desire to anticipate the verdict of posterity, but I venture to affirm that it will be absolutely impossible for the Chairman, however able and however devoted he may be, to exercise any effective control over the numerous band of the executive to whom his authority must necessarily be delegated, and who in practice will either be irresponsible or will enjoy the delightful position of having an autonomous responsibility. But this is not all. You deny to the members of the Corporation the right of access to the records of the Chairman and the General Committee, you render public criticism impossible, you draw a thick veil of mystery over the misdeeds of the executive.

“But these, Sir, are not the only objectionable features of the Bill. I venture to remind the Council that one of the alleged flagrant abuses to remedy which the promoters of the Bill were so anxious was the growth of party-spirit and the appearance among the elected Commissioners of a class of professional and, in some cases, corrupt politicians. I ask, Sir, if there are any provisions in this Bill intended or calculated to remedy these evils if they really exist. I confess, Sir, I cannot recall to mind any single provision in this direction. On the other hand, I can recall to mind at least one provision which will have the effect of alluring the needy to the Municipal Board and of keeping away the honourable who will naturally shrink from a contest which may be construed as a contest for personal gain. I affirm that nothing has been done to remove or to prevent the recurrence of the alleged corruption. You declare that you have discovered a hidden gangrenous sore in a limb of the commonwealth, you refuse to open and examine it, you replace it by a new one, but you provide no guarantee that the sore will not reappear.

“I do not propose, Sir, to pursue this somewhat painful line of investigation, but apart from these questions I cannot conceal from myself that you have embodied in the Bill provisions not a few, which are inconsistent with the first principles of jurisprudence. In this connection, Sir, no one regrets more keenly than I do the absence at this crisis of my hon’ble friend the Advocate-General, whose impartial and independent criticisms would have been of the utmost value. Forgetful of Macaulay’s maxim, that in codification we must have uniformity when we can have it, diversity when we must have it, but certainty always,—you have introduced into the law presumptions which are demonstrably untrue, and you have introduced variations from the general law for which there is no possible justification. You have maintained an arbitrary system of assessment which is inconsistent with the first notions of political economy, which is inconsistent with the law as administered in England, and which was introduced by reason of a misconception of what that law was. You have incorporated into the Bill variations upon the provisions of the Land Acquisition Act which are absolutely indefensible in principle, which under the garb of law will facilitate the confiscation of private property, which will in some instances operate to the injury of the citizen and in others, most unexpectedly, to the injury of the very Corporation they are intended to benefit. To crown all, the provisions of the Bill are so numerous, many of them are so novel and so complicated, and their intention and operation will lead to so many doubts and difficulties, that they will puzzle the best administrators, lead to the inevitable oppression of the poor, and foster mischievous litigation. These, Sir, are blemishes of a grave and serious character, and I shall be wanting in loyalty to the profession to which I belong if I were to accord my sanction to them.

“Before I resume my seat, Sir, I desire to take the opportunity of referring to the startling theory propounded this morning by the Hon’ble Member in

charge of this Bill. I have met with some surprises in the course of this prolonged debate, but I did not know that the greatest of these surprises had been reserved for the very last moment. The Hon'ble Member in charge of the Bill has seriously defined the function of this Council to be to carry out the mandate of the Government of the day when the principle of any proposed measure of legislation has been approved by that Government. I would not have been surprised, Sir, if this had been authoritatively laid down to be the duty of the official Members of this Council. Thus qualified, I might have left the proposition alone and unchallenged. But I repudiate, in the clearest possible terms, this extraordinary theory when it is applied to non-official Members. In spite of the doctrine expounded by the Hon'ble Member in charge, I retain, Sir, the right to think and judge for myself. I have made none the custodian of my conscience, and, so long as I have the honour of a seat in this Council, it will be my duty to advise the Council to the best of my ability and judgment, regardless of what this or that party may approve or disapprove."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Before I proceed to offer the few observations I have to make with regard to this Bill, I should like with Your Honour's permission to put a question to the Hon'ble Member in charge of the Bill. The question I wish to ask is, if formal sanction has been communicated to this Government by the Government of India in reply to the letter of this Government, No. 180D., dated the 4th May, 1899. In that letter sanction was asked to the penal clauses of the Bill. I have carefully gone through the Despatch of the Government of India, but I do not find any formal sanction whatsoever. May I be permitted to ask the Hon'ble Member in charge of the Bill whether this sanction has been obtained?"

The Hon'ble MR. BAKER said:—"The sanction is implied in the long letter which the Government of India addressed to this Government on the 17th June. The effect of that letter was to authorise the Council to proceed with the Bill on the lines laid down by the Government of India."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I take it then that no formal sanction has been obtained except such as may be implied."

The Hon'ble MR. BAKER said:—"I am informed by the Secretary that, under the rules of the Government of India, if formal sanction is not received within two months, it may be implied that sanction has been given."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Just as I was coming to this Council this morning, I received a letter which reminded me that to-day was the anniversary of the death of Raja Ram Mohan Roy. It seems to me to be most fitting that the anniversary of the death of the greatest Bengali of modern times should correspond with the date which will be remembered by the future historian of Bengal as the date which marks the extinction of local self-government in that city where he lived and worked and which was the city of his love.

"Sir, I do not remember any project of law which within the lifetime of this generation has created a graver sense of uneasiness, or one which has more profoundly stirred the hearts of the people. It has evoked the most persistent agitation since its introduction into this Council—an agitation which for its earnestness, the depth of feeling which underlies it, and the visible alarm which it embodies, is unparalleled in the annals of this city. It will not do to seek to belittle the intensity of these demonstrations. It will not do to say that this agitation is the work of wire-pullers. Where would the wire-pullers be if there was not a substratum of feeling upon which they might work? And, Sir, am I to understand that you are to set down as wire-pullers men like Raja Benoy Krishna Deb, Bahadur, Kumar Radha Prasad Roy, Bahadur, Kumar Monindra Chunder Mullick, Bahadur, Babu Joitirindranath Tagore and others, the illustrious scions of illustrious and princely houses? • If they



have been driven into the ranks of the agitators, the Bill is responsible for it. It is bad measures that make men agitators. It is good measures that rob them of their work. It will not do, I say so deliberately, to belittle the agitation which has been set on foot against this Bill. It represents all the culture, all the talent, all the wealth of this great city. It represents all that is highest and best and noblest in the municipal and the public life of Calcutta. Men who have never stirred out of their homes to attend a public meeting, men who have never uttered the whisper of a complaint against any measure of the Government of this country, men who have hitherto lived in the quiet and contented possession of their wealth and in the enjoyment of all that wealth implies, have felt themselves constrained under a sense of overwhelming duty to record their deliberate protest against this measure. Mark the opposition of my friend Raja Ranajit Sinha, Bahadur, of Nashipur, a most peace-loving, loyal and law-abiding man, and yet, as the representative of the landholding interest in Bengal, speaking with the weight of that interest behind him, he feels it his duty to record publicly and emphatically his deliberate protest against this Bill.

“My friend the Hon’ble Mr. Oldham in the course of the observations which he addressed to us was pleased to say that this protest is the work of the Brahmins and the lesser Brahmins. No, Sir! This protest, emanates from the voice of a united community. It is repeated in every Indian newspaper, it is reproduced in every vernacular journal, it is the talk of every bazaar in the Indian part of the town, it is the staple of conversation in every Indian home, and it has at last been reproduced on the Indian stage. The volume of opinion grows day by day until it bids fair to become the common opinion of a united community. I desire to remind my hon’ble friend, who is so anxious to belittle the intensity of public feeling with regard to this matter, of an expression of opinion which comes from an authority which my friend is bound to respect—an authority which is held in the highest respect by this Council—the authority of no less a man than John Stuart Mill. In his Essay on Representative Government, John Stuart Mill says ‘The opinions and sentiments of the educated classes are sure to filter downwards and become in the course of time the opinions and sentiments of the uneducated masses.’ Let us not, therefore, lay the flattering unction to our souls that this protest comes from a few interested people and their still fewer followers, and that, behind the din and noise which they have created, the great Indian community of Calcutta repose in the silence of peace and tranquillity.

“And here I have a matter of complaint, and when I make it I desire in the most explicit terms to eliminate your respected personality from that complaint. The complaint I have to make is as to the way the representations of my countrymen have been treated. The most painful feature in this most painful controversy is the total disregard shown for the Hindu opinion of this city. I repeat the question—how have you treated those representations, the memorials and petitions which were addressed to this Government not by dozens but by scores and hundreds? How have you treated these representations? With the exception of a memorial that was addressed to the Government of India, not even the courtesy of a reply was vouchsafed to any of them. My hon’ble friend will reply—and I can almost anticipate what he will say—that these representations were placed before the Select Committee and carefully considered by that Committee. I do not wish to question that statement in the smallest degree. No doubt they were carefully considered, and they were as carefully rejected. So far as the constitutional clauses of the Bill were concerned, these representations might not as well have been made. I ask then—where was the necessity for inviting the Indian public bodies to express their opinion with regard to those features of the Bill, the constitutional clauses especially, in connection with which the conclusions of the Government were foregone conclusions? Where was the necessity of enacting the solemn farce of inviting public opinion when anything that public opinion might say was not likely to make the least impression upon the mind of the Government? How different, Sir,—and I deplore the fact,—was the state of things in 1876 from the state of things now! How much more deferential the Government in those days was to the

expression of public opinion—what greater latitude, wider scope and independence of action was permitted to official Members? Read the proceedings of the Council in connection with the Calcutta Municipal Bill of 1876, and you will find that the official members frequently voted on opposite sides, the Lieutenant-Governor on one or two occasions being in the minority. All that is now changed, and the result is that our amendments were massacred in the most ruthless manner.

“My hon’ble friend expressed his surprise that we should have our amendments chiefly to the constitutional clauses of the Bill, and that we should have thought it unnecessary to address ourselves more vigorously to the substantial part of the measure. There was a very good reason for that. Great concessions were made by my hon’ble friend in the Select Committee in respect of what he calls the substantial part of the Bill. The building regulations, as I said the other day, were completely recast, and my hon’ble friend Mr. Buckley, who has all the instincts of an administrator, expressed to me, if I may be permitted to betray the secrets of his prison-house, his surprise that such proposals should ever have been thought of as were embodied in the original Bill in regard to the building regulations. Therefore, Sir, so far as the substantial part of the Bill was concerned, important concessions have been made. Very little changes had to be proposed in that connection, but as regards the constitutional clauses my friend was inexorable; he would not move an inch; manfully or unmanfully he stuck to his guns—he would not make any concession, except the one to which I have had occasion to refer; and therefore in the discharge of that duty, which is imposed upon us by the mandate of our consciences and the mandate of our constituents, we felt it incumbent upon us to address our amendments chiefly to the constitutional provisions of the Bill. And, Sir, it was the highest duty imposed upon us as the citizens of this great metropolitan town that we should challenge with all the emphasis that we could command these revolutionary provisions in the Bill, the effect of which was to destroy the germs of local self-government in the capital of the Indian Empire. Your Government, Sir, was bent upon committing a grave mistake, and we as loyal citizens felt it our duty to prevent the commission of the mistake. Therefore it was that we directed our unremitting attention to those amendments which affected the constitutional part of the Bill. Our amendments as regards this part of the Bill were for the most part rejected, and our arguments did not produce the least impression. Was that due to the badness of the cause, or was it due to the inaptitude of the advocate? I can at least recall to mind one or two occasions in which it was due to neither of these causes. I will take a concrete case. In April, 1898, this Council by a unanimous vote affirmed the principle that there were to be 75 Commissioners on the Corporation, and that two-thirds of the Commissioners were to be elected. In August, 1899, the Council reversed its judgment in this respect. My friend and myself argued, we protested, we entreated, we exhausted all the resources of argument in connection with this matter; but we made no impression. The Council was obdurate and our amendments were rejected. Arguments which held good in 1898 were considered to be bad and useless in 1899. The *personnel* of the Council being practically the same, what then, Sir, had happened in the meantime to bring about this change in the spirit of our dreams? It was the mandate of the Government of India, and here we have the secret of the explanation which accounts for the ruthless massacre of our amendments. Our amendments, based upon reason, were overborne by authority—it was reason pitted against authority—mandate against argument—and reason succumbed—authority prevailed. I think my hon’ble friend the Member in charge of the Bill will bear me out in that statement.

“My friend has been good enough to say that ours is a subordinate Legislature. My friend the Member for the University has recorded a vigorous protest against the application of that expression, so far as it concerns the non-official Members of this Council. While my hon’ble friend says that we are a subordinate Legislature, a far higher authority than my hon’ble friend, the highest authority connected with the Government of India, the Secretary of State himself, from his place in Parliament has declared that the Bengal Council was a self-governing body. We are indeed not a self-governing body. We may protest, we may argue; but we are overborne by



the votes of the official majority. If we were a self-governing body, if we had been left to our own unaided impulses in this matter, to our own unfettered judgment and discretion, I am perfectly certain that the Bill would, so far as regards some of the most important features of the constitutional clauses, have borne a very different aspect altogether, and the community would have been spared the disappointment which they feel owing to the modification of the Bill in accordance with the mandate of the Government of India.

"And here, Sir, if I may do so without disrespect, I may add that the sense of disappointment has been accentuated by the ruling of Your Honour which shut out some amendments bearing upon the constitutional clauses of the Bill, on the ground that they traversed principles which had already been accepted by the Council. I most respectfully ventured to point out at the time that the ruling was altogether new and unprecedented, and that it was unfortunate as being applicable to a case which had excited the keenest controversy. I am bound to say, Sir, from my place as a responsible Member of this Council, that Your Honour's ruling in this connection has intensified public dissatisfaction.

"And here, too, I may advert for a moment to our daily sittings which happily are going to close to-day. Here we have been summoned and we have met from day to day for a period of more than a fortnight, and have sat sometimes from 11 in the morning to 5 o'clock in the afternoon in connection with a matter of the gravest magnitude and importance. Sir, where was the necessity, may I be permitted to ask, for all this worry and hurry? The affairs of Calcutta have been managed in the past without a measure of this kind, and those affairs might have been managed in the future, at any rate for a year or two, without a measure of this kind. I desire to point out that high-pressure legislation is often conducive to inefficient legislation, and that what is done in haste may have to be undone at leisure.

"And, Sir, I cannot help remarking in this connection that the circumstances of the Bill are altogether of a most extraordinary character. The Bill is of portentous size, extending over 650 sections; it was introduced into this Council amid the stifling heat of an April month, when people are more fit to be in bed than attend to public business, and it is being considered amid the dog-days of September, after having been threshed out by a Committee upon which is entailed severer labour than any Committee has ever undergone in connection with any measure of this Council; and now, Sir, it emerges from this Council in a shape and form which makes it, I venture to add, one of the least acceptable measures which this generation has witnessed. My friend has been good enough to tell us that this Bill is a better Bill than the Bill as revised by the Select Committee. I listened with astonishment, bordering upon bewilderment, to a statement such as that. This Bill a better Bill than the one as originally revised by the Select Committee! Why, Sir, if I may be permitted to introduce this Council into a little secret I will say this—that it is the character of this Bill, the determined attitude of Government in regard to it, the hopelessness of obtaining any modification, and the natural desire to be spared the necessity of witnessing the closing scenes connected with the extinction of a cherished institution—it is these circumstances rather than any personal considerations or personal motives which determined the action of the 28 Commissioners who resigned; and I am proud to say that I am one of them. The Bill is distinctly worse, less acceptable, more retrograde and reactionary than the Bill as revised by the Select Committee, and I go a step further and say than the Bill as originally introduced into this Council. I think I shall be able to convince my hon'ble friend in five minutes time that he is hopelessly in the wrong, and that he ought to accept my view of the matter.

"The Bill as revised by the Select Committee restored to the Corporation the power of making some of the superior appointments which the original Bill had withdrawn, and which was obtained through the intercession of my hon'ble friend. It also sought to invest the Corporation with the power of the purse. These two powers remain to the Corporation at the present moment, and possibly my friend will say that therefore the Bill is a distinct improvement upon the Bill as originally introduced. No such thing. These concessions are

nullified by the reduction of the representative element to one-half its numerical strength. The powers which the Corporation now possesses will be powers which will no longer be used by the representatives of the people.' Those powers will be used by others than the representatives of the rate-payers, and therefore it must be admitted that the Bill is distinctly worse than the Bill as originally introduced, because that Bill left untouched the numerical strength of the representative element in the Corporation.

"There is, I am afraid, a considerable measure of misapprehension with regard to this Bill in high quarters. The Government of India recommended a closer adaptation of the Bombay system. I venture to submit that there has been no adaptation of the Bombay system in any form or sense. The essence of the Bombay system, as my friend to my right has pointed out, involves the complete separation of the deliberative and the executive bodies. The principal characteristic of our system is a commingling of the two bodies and their functions. This is preserved in the Bill. Thus the chief characteristic and the leading feature of the Bombay system is wanting. Lord George Hamilton seems to be under the impression that he is giving us the Bombay system. In reply to certain observations which were made by Mr. Herbert Roberts from his place in the House of Commons, the Secretary of State said that, inasmuch as the Bombay system had been so successful in Bombay, there was no reason to apprehend a different result when that system came to be applied to the conditions of municipal life in Calcutta. He was under the impression that we are getting the Bombay system. Not at all, Sir. My hon'ble friend the Member in charge of the Bill strenuously resisted every attempt on our part to approximate the Bombay system to the system provided under the Bill. Like Cerberus, guarding the portals of the nether world, my friend has been maintaining jealous watch and ward over the provisions of the Bill, and he would not permit any sacrilegious interference with its substance.

"My friend the Member for the Corporation and myself made certain recommendations, the object of which was to assimilate the system provided in the Bill to the Bombay system. We proposed that the Corporation should elect its President. The Hon'ble Member in charge of the Bill objected, and the Council rejected the motion. We proposed that the General Committee should elect its President. My friend objected; the Council rejected the amendment. My friend would not even permit the Sub-Committees to elect their Presidents, in case the Sub-Committees had the Chairman as a member. He thought if the Chairman was there, he ought to preside, otherwise forsooth his dignity and prestige would be gone! We climbed down. We thought it was impossible to persuade the Hon'ble Member in charge of the Bill to accept these leading features of the Bombay system. So we recommended, again following the lines of the Bombay system, that the Corporation should have the power to appoint Committees to institute inquiries into matters relating to the municipal administration of Calcutta. The Hon'ble Member objected, the Council followed his lead, and our amendment was lost. And then, Sir, the last of our amendments in this respect related to a very small matter, and it was this: that the Corporation should have the power of calling for any papers or extracts of proceedings from the Chairman. My friend again objected, again the Council followed his lead, again we were in hopeless minority. The faithful, the loyal, the devoted six manfully standing by their guns, and the twelve on the other side overwhelming us with the weight of their number.

"The object of the Bill throughout has been the exaltation of the authority of the Chairman and the diminution of the authority of the Corporation. The Hon'ble Member in charge of the Bill went so far as to say that he would not give to the Corporation any power which could with due propriety be vested in any other municipal authority. If that was the feeling which underlay this measure, why enact the farce of a Corporation at all? Why not reduce it to a department of the Government? Far better would it be from the administrative point of view—far more acceptable would it be to public opinion, if the Chairman was made an officer of the Government, responsible to Government for his actions, than that he should be left irresponsible in his present exalted office, presiding over a body retaining only the semblance and not the reality of local self-government. And yet in



the same breath my hon'ble friend—and he has repeated the statement to-day—has told us that the Bill does not involve the extinction of local self-government, but only provides for the re-adjustment of the principles of local self-government. The Bill does not involve the extinction of local self-government! I am surprised at that statement. What does local self-government mean? If these words have any significance, any import, any weight, they mean this: the administration of local affairs by the representatives of the local public. But, Sir, if the representatives of the local public are reduced to a minority—perhaps to a hopeless minority in the governing body of the Corporation—what becomes of local self-government? Local self-government ceases to exist. My friend has been good enough to tell us that there has been a re-adjustment of the principles of local self-government. The Government of India, too, in their despatch observe that there should be adequate representation of the various interests which compose the corporate life and wealth of the city.

“Now, Sir, let us examine this principle with reference to that which constitutes the basal principle of local self-government as laid down by the most illustrious exponent of representative institutions the world has ever seen. John Stuart Mill says—and I again quote from his *Essay on Representative Government*:—

‘As the principal duty of the local bodies consists of the imposition and expenditure of local taxation, the electoral franchise should vest in all who contribute to the local rates to the exclusion of all who do not.’

“Therefore, Sir,” according to John Stuart Mill, local representation must follow the lines of local taxation. Those who pay have a right to be represented. Those who do not pay have no right to be represented. Those who pay ought to be represented in the proportion in which they pay. Now let us apply this principle to the question of representation as raised in this Bill. What is the contribution of the local European community to the municipal taxation of the town? The sum total of municipal taxation comes up to about 46 lakhs of rupees. The local mercantile community contribute little more than one lakh or about 2 per cent; and, Sir, if, having regard to the contribution which the mercantile community make to municipal taxation, it could be urged that they were inadequately represented on the Corporation and the governing body of the Corporation, then a substantial ground would exist for the readjustment of the principles of local self-government: But no such case has been made out.

“And, Sir, in this connection I must advert for a moment to the observations which have been made by my friends the representatives of the Chamber of Commerce and the Trades Association. I have listened with very great attention and with the utmost respect to the speech of the Hon'ble Member representing the Chamber of Commerce. His speech when analysed divides itself into two parts. I desire to consider each of these parts. There is, firstly, the financial position taken up by my friend, and, in the next place, the constitutional features of the Corporation as provided in the Bill. My friend has told us that there is the Port Trust, which pay two lakhs of rupees towards municipal taxation. I quite admit that. And, Sir, if that were taken into calculation, would it make any difference—any appreciable difference—in the percentage of municipal taxation as contributed by the mercantile community? I do not think it would. My friend has been good enough to tell us—and the same argument has been repeated time after time by the Members representing the interests of trade and commerce in this Council—that but for European trade and commerce Calcutta would be a mud-bank. I will come to the theory of the mud-bank presently. But, Sir, if we, the people of Calcutta,—I am speaking on behalf of the residents,—are so largely benefited by European trade and commerce, may I be permitted to respectfully ask whether my friends are not benefited almost in equal measure by being in Calcutta and, while there, making their thousands and tens of thousands and then retiring to their homes with their fortunes made? My friend the Hon'ble Mr. Spink shakes his head. Of course I do not know what his experience of the matter may be; but if Calcutta has benefited by the presence of European merchants, the European merchants have also benefited by being associated with us. It is a question of reciprocal obligations—a question of mutual benefit. Therefore,

my friends have no right to put the matter forward in the way they do, as if we were the only parties who were benefited by the presence of European merchants here. Then, Sir, my friend has said there is a large quantity of capital sunk in Calcutta. If there is any capital sunk in Calcutta, how much larger is the quantity of capital outside Calcutta. Where are your mills? Surely not in Calcutta."

The Hon'ble Mr. MACKENZIE said:—"Howrah has a lot of mills."

The Hon'ble Babu SURENDRANATH BANERJEE said:—"Howrah is not Calcutta. We might extend the provisions of the Bill to Howrah, but Howrah is not Calcutta. Therefore, Sir, my friend will admit that he has made a mistake regarding the capital sunk as being in Calcutta."

"I rejoice, however, to find that there is a strong unanimity of opinion to which expression has been given by both my friends, the Member for the Chamber of Commerce and the Member for the Trades Association, to the effect that we must have more money for the improvement of Calcutta, that the limit of taxation imposed upon the humble dwellers of residential houses has reached its maximum, and that therefore, Sir, we have a right to appeal to the Government of India to come to our aid, and if the Government of India is obdurate and stony-hearted in the matter, and will not respond to our appeal, then we would appeal to the Hon'ble Members here representing trade and commerce, and ask them to consent to the imposition of an octroi or some other duty which would make a substantial addition to the municipal funds. Such a contribution from the mercantile community would at any rate have the effect of placing their representation somewhat upon a footing of correspondence with the taxation which they would contribute."

"With reference to the constitutional issues raised by my hon'ble friend, I do not know that it is necessary for me to deal with them at any length. My hon'ble friend representing the Chamber of Commerce seems to be opposed to any sort of appeal. He said, if you give the right of appeal against the orders of the Chairman, that would fritter away his responsibility. It is a novel principle which for the first time has been propounded by the Hon'ble Member. There are appeals from the Magistrate of the district to the Commissioner of the Division: Then there are appeals from the Commissioner of the Division to the Board of Revenue or the Lieutenant-Governor. Am I to understand that this right of appeal from one officer to another which continues in an ascending scale is in the smallest degree calculated to minimise that sense of responsibility by which I am perfectly sure every officer of Government is animated?"

"One remark of my hon'ble friend I strongly object to. It must have been a slip—it must have escaped him in the hurry of the moment—it could not have been put down in his manuscript as a matter of deliberation or careful thought. He said he was glad that so far as the making of appointments was concerned by the Chairman his power has been raised in respect of salaries from Rs. 200 to Rs. 300 a month, for that would have the effect of avoiding jobbery. I will quote my hon'ble friend in charge of the Bill against the *obiter dictum* of the Hon'ble Member representing the Chamber of Commerce. My hon'ble friend the Member in charge of the Bill with all the weight of his knowledge as regards municipal affairs, and with all the experience which he possesses in regard to the Municipality of Calcutta, was pleased to tell us the other day in the most distinct, clear and emphatic terms that so far as the making of appointments was concerned there was no jobbery, no corruption, no malpractices of any kind; and, Sir, if my friend would only weigh the matter a little, carefully he would find that his statement will not stand the test of scrutiny. The Chairman now makes appointments up to Rs. 200 a month. He will make appointments under the present Bill up to Rs. 300 a month. I gave a list of those appointments which he is likely to make. If there is jobbery now, there will be jobbery under the Bill. It would not make any great difference if over and above the appointments which the Chairman now makes he was called upon to make a few more appointments."



"Now, Sir, I would like to advert to the argument of the mud-bank. My friend was pleased to tell us that but for the European merchants and tradesmen Calcutta would be a mud-bank. Sir, I have heard it very often repeated that were it not for European capital and enterprise Calcutta would still be a reeking swamp. I am free to admit that we owe a great deal to European merchants, to the energy, ability and enterprise which characterise the princes of European commerce. But so far as the creation of Calcutta is concerned, is not the Government a substantial factor, and is not the Government of this country—that Government over which Your Honour presides—is it not a Government of Hindus, Muhammadans and Christians—is it not much more the Government of the Hindus and the Muhammadans than it is the Government of European merchants? And, Sir, have not my countrymen contributed to the making of Calcutta? Admitting for argument's sake that Calcutta is what it is owing to the enterprise of European merchants, would not such an assumption irresistibly lead to the conclusion that the Act of 1876 was a mistake, having regard to the law which we are now about to enact? Are my friends, the official Members, here prepared to say that the Act of 1876 was a mistake? Are they prepared to say that the Act of 1888 was also a mistake? Are they prepared to say that Sir Richard Temple and the distinguished men with whom he was associated, and that their successors Sir Stuart Bayley, Sir Henry Harrison, Mr. Herbert Reynolds and Mr. Macadlay—that all these great and distinguished men committed a blunder, and that they aggravated the blunder by extending to the suburbs the municipal system which it is now proposed to uproot both in Calcutta and the suburbs? I am a Hindu, and I am penetrated with a deep instinct of reverence for the past. I cannot approach the past except with feelings of the highest respect. Revolution and revolutionary measures are abhorrent to my nature. If mistakes were committed, and even if it was admitted that a mistake was committed in 1876, I ask is it not too late now to rectify that mistake? Mistakes, too, are consecrated by prescription. But, Sir, I go further and hold that the Act of 1876 was not a mistake, and I am prepared to accept the position which was taken by the Hon'ble Mr. Turner in this Council in connection with this measure. He said, quoting from Lord Ripon's scheme of local self-government, that it was consistent with its principles to reverse any system of local self-government when it failed, owing to the pertinacious neglect or the continued incompetency of those entrusted with its working. Has there been any such neglect, any such incompetency alleged against the Calcutta Corporation? And, if any such allegation has been made, can it be said that it is capable of being proved? My friend, the Hon'ble Member in charge of the Bill, in the course of the observations which he made to-day, was pleased to say that local self-government must now be judged as an institution which is in its youth, and by its results. I am prepared to meet my friend upon his own chosen ground, and I will say this: that if local self government is to be judged by its results, it will be found that it has a claim to perpetuity in the capital of the Indian Empire. Read the proceedings of the Corporation. Read the administration reports of successive Lieutenant-Governors. Read the high testimony which they have borne to the efficiency of the Corporation. Look round Calcutta. Look at the sanitary works which have been carried out by the much-maligned elected Commissioners. Calcutta has been reclaimed by them and has been converted by them from a reeking swamp into one of the healthiest cities in the province. Therefore, Sir, I am entitled to hold that, judged by its fruits, local self-government has been a success in Calcutta, and therefore the Act of 1876 and the Act of 1888 were not mistakes, but that you are about to commit a grave blunder by reversing the policy of 1876.

"I do not think, Sir, that I should be justified in detaining the Council much longer. I have only a few words more to say, and I take my stand in opposing this Bill upon the resolution and the orders of the Government of India. The Government of India have declared in their despatch of the 17th June last that there should be no contravention of the broad principles of local self-government. I hold that this Bill is absolutely destructive of the principles of local self-government. Then, again, Lord Ripon in his great scheme of 1882 repeatedly insisted upon the desirability of associating the people of this country in the matter of the management of their local affairs, if

only as a relief to the local officers and as a means of gratifying the legitimate ambition of the people. I will quote only two extracts from the Resolution:—

‘The universal complaint in all departments is that of overwork. Under these circumstances it becomes imperatively necessary to look around for some means of relief; and the Governor General in Council has no hesitation in stating his conviction that the only reasonable plan open to the Government is to induce the people themselves to undertake, as far as may be, the management of their own affairs; and to develop or create, if need be, a capacity for self-help in respect of all matters that have not for imperial reasons to be retained in the hands of the representatives of Government.’

“And again—

‘The desire of the Government of India therefore is not to force upon all parts of the country a uniform system of its own devising, but to secure the gradual training of the best and most intelligent and most influential men in the community to take an interest and an active part in the management of their local affairs.

‘It is one of the inevitable drawbacks of a widespread system of State education that it encourages to an unhealthy extent a desire for employment in the public service, not only as a mode of livelihood, but as a means of obtaining influence and distinction. No more effectual remedy for this evil can be provided than by affording to persons of education and talent fair opportunities for devoting their energies to the public service in a non-official capacity.’

“The Government of India under Lord Ripon went so far as to say that they were prepared to sacrifice the ends of administrative efficiency for the higher purposes of popular and political education. All this is now to be reversed. The preponderance of the Hindus is to be cut down; their authority in the Corporation is to be curtailed. What have the Hindus done to merit this treatment at the hands of the Government? Is this the reward of their loyal, faithful and devoted service to the cause of local self-government extending over a period of 25 years! In the crisis of the plague they rendered valuable help, and Your Honour's Government was pleased to acknowledge their services. Is this then to be their reward? After this, what will be their incentive to associate themselves with the Government in public work for the benefit of the country? I venture to submit that the educated Hindus have a claim upon the sympathetic consideration of the Government. Sir, speaking as an educated Hindu, and as a representative of that race, I desire to say that we are the products of English education and English influences. We have been fed upon the strong food of English literature and of English constitutional politics. We are fired with a lofty ambition to serve our country and our Government. Are you going to stifle our ambition in that respect by closing against us one of those institutions which, more than anything else that I can think of, has contributed to the development of the public spirit and the public life of this city? Far different was the policy, far different the traditions consecrated by the illustrious names of those Anglo-Indian statesmen whose genius and philanthropy have founded and consolidated the vast and stupendous fabric of imperial sway. In 1833, Lord Macaulay, speaking from his place in the House of Commons, on the occasion of the enactment of the Charter Act, used language which appears to me to have about it the ring of prophetic inspiration. He said:—

‘It may be that the public mind of India may so expand under our system as to outgrow that system; that by good government we may educate our subjects into a capacity for better government; that having become instructed in European knowledge, they may, in some future age, demand European institutions. Whether such a day will ever come I know not. Whenever it comes, it will be the proudest day in English history.’

“Thanks to the beneficent efforts of a succession of distinguished Anglo-Indian statesmen, that day has now arrived; and, Sir, are you going to undo their work and the promises of their work? You will never succeed. You will never be able to roll back the tide of progress which has set in with such irresistible force in this country. The forces of progress will triumph over the forces of reaction. There may be a temporary check—a temporary defeat—a temporary reversal: the flag which we hold aloft may drop from our sinking hands, but others will take it up and lead it to an assured victory. Sir, to me the institution of local self-government in Calcutta has something of personal interest and personal concern. I cannot forget the debt which I owe to the Corporation. That debt will remain graven upon my mind so long as



life endures. All that I possess in the shape of public spirit, in the shape of love of justice, in the shape of a sense of sobriety and of moderation, I owe to the Corporation; and to me it is a matter of the most poignant regret that an institution so full of promise for the benefit of our children should be closed against them, that, not being trained in the civic traditions of a self-governing Corporation, they will be driven to the ranks of irresponsible agitators. The ceremony and the function of to-day possesses for me elements of the saddest character. As I said the other day at a great meeting of my countrymen at the Town Hall, I was associated with the birth of local self-government in this city—I watched it at its cradle—I ministered to its growing wants—I rejoiced at the exuberant vigour of its manhood, and now it is my mournful task to be associated with a function which means the extinction of local self-government in Calcutta. No sadder or more melancholy task was ever assigned to a public man; but these are the vicissitudes of public life. All the same, Sir, most earnestly and most emphatically do I renounce all responsibility in connection with this measure; and I will continue to live in the hope, the trust and the confidence, based upon my unswerving faith in the dispensations of a God of Righteousness—I will live in the hope and the trust that better days are yet in store for my native land, that the wisdom of the past will soon be vindicated, and that the inestimable boon of local self-government will, within a measurable distance of time, be restored to the city of my birth, the home of my sires, the destined home of my children and my children's children, round which cluster my dearest, fondest and tenderest associations."

The Hon'ble MR. BOLTON said:—"It will perhaps be an advantage if the fervid speeches of my hon'ble friends who have last spoken were followed by the few calm remarks with which I desire to conclude my share in the discussion of this important measure. I have not hitherto joined in the debates on the most important controversial questions which have been discussed in the course of these sittings, and I do not propose to take a different course to-day. These matters have been uniformly dealt with with admirable fullness by my friend the Hon'ble Member in charge of the Bill. I have no desire to strike a single note of discord or unpleasantness at the last hour. The stage has been reached at which it is possible to congratulate the Council, the Government, and the public on the termination of the prolonged contest which the Bill has excited. That legislative proposals introducing changes so important in the municipal constitution of the metropolis of the Province should have stirred the educated classes and aroused strong opposition was natural, and was necessarily anticipated. But it may be hoped that the final decision of Council will now be accepted and an end put to fruitless controversy. Whatever the views of the opponents of the Bill in regard to the principles on which the administrative machinery of the Municipality will be reconstituted, it will be generally admitted that many provisions have been introduced which cannot but conduce to the improvement of the administration of the city and the well-being of its inhabitants. I desire to offer my tribute of appreciation to the Members who have represented in this Council the opposition to the Bill. In the fulfilment of the task which they felt called upon to undertake, they have displayed unremitting industry, ability and patience, and, if they have lost, to them remains the satisfaction of having discharged their duty in the fullest degree. Well may they say that it is better to have fought and lost than never to have fought at all. I trust that the men of light and leading in the Indian community of Calcutta will not permit any feeling of disappointment to restrain them from taking in the future as active a share in the work of the Corporation as they have done in the past. It will still be open to them under the new constitution to assist actively and with much influence in the municipal administration, and I venture to add that it is incumbent on them to place their services at the disposal of their countrymen and of the Government."

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH said:—"Your Honour, I have great pleasure in supporting this Bill. It is a wise, salutary and urgently needed measure. The experience of years has proved how much such an enactment was required. The Bill has been framed after mature deliberation,

and the fullest consideration has been given to the opinions and suggestions of all interested in the matter. I look forward with the firmest hope to witness in my own time the good effects of the new Municipal Act in the town of Calcutta. The Bill is as perfect as anything human can be, and the Calcutta Municipality should soon take its rightful position as the model Municipality.

"There is, however, one matter affecting Muhammadan interests which I feel, as a representative of the Muhammadan community, I should not omit to mention. The Bill, as it stands now, will have the effect of shutting out the Muhammadans to a great extent from election, a fact to which the results of the past election bear ample testimony. As the Bill has for one of its objects to allow due representation on the Municipal Board to such class or community as may be inadequately represented, I would suggest that in the rules to be framed by the Local Government to regulate elections, provisions may be made to secure a fair proportion of Muhammadan representation on the Board and the General Committee. It must be distinctly understood, however, that I do not advocate the increase of the number of Commissioners to be elected. I think we should all of us be deeply grateful to our good Lieutenant-Governor and the Hon'ble Mr. Baker for the enormous trouble they have taken in this matter and for the wonderful patience they have displayed. His Honour's kindness is beyond all praise."

The Hon'ble Mr. BUCKLEY said:—"Sir, during the progress of this Bill both in this Council and in the Select Committee, I have hitherto taken no part whatever in the discussion on the clauses which are commonly described as the constitutional ones. I do not desire to do so now beyond saying this: that to my mind municipal government is not a matter of classes; it is not a matter of races; it is not a matter of creeds; and, above all, it is not a matter of politics. I think municipal government is a pure, simple and often a very uninteresting matter of business," and that it matters little how the men who are selected for the work are appointed provided that they are interested in the work and competent to do it. Sir, the Hon'ble Babu Surendranath Banerjee has frequently in this Council argued for the supremacy of a class. Just now he told us that one class paid 40 lakhs, another class paid one lakh of municipal taxes: and, if I follow his argument, he would wish that the representation on the Municipality should be in those proportions. I do not believe in the application of this principle. You cannot regulate all matters in this life by the rule of three. The most powerful Committee in this world—the British Cabinet—is formed on no principles whatever, and I believe has no place, strictly speaking, in the constitution of the country.

"I would wish to refer, Sir, mainly to a few practical matters with which I am far more competent to deal than any questions connected with the constitution. The Hon'ble Mr. Baker in speaking this morning said that this Bill might be divided into two heads—the constitutional part and the practical part. The Hon'ble Babu Surendranath Banerjee, in his eloquent and moving speech, made it a great grievance that the representations of certain bodies had not received even the courtesy of a reply. To my mind those representations did receive the courtesy of the best reply it was possible to give them. They were most fully considered, and, what is more, they did have weight in influencing and changing many of the practical conditions of the Bill. The Hon'ble Babu Jatra Mohan Sen has been good enough to say that in the Select Committee I myself had some influence in making changes which were acceptable to the native community. To a very large extent, Sir, those amendments were the result of a careful and laborious study which I made of all the representations, not only those forwarded by responsible bodies, but those—some of great value—which were made by independent gentlemen who are members of the Corporation, and I do take some little credit to myself that I was able to make some little modification in the building clauses and matters connected with them, which I believe were to the advantage of the native community.

"Sir, I wish rather to look forward than to look back. I would like to see what some of the duties and what some of the functions will be of this new Municipality. I prefer to do this rather than, like my friend the Hon'ble



Mr. Apar, to lose myself in the mazes of old discussions with reference to some rather unsavoury matters. The first point with reference to these practical matters to which I would refer is the important change which has been made in connection with the water-works of this town. I am rather surprised that no objection has been raised to the change either in the Select Committee or in this Council. The water-works of Calcutta are, I think, the most popular works that the municipality have carried out. At the same time, they are works which are of the greatest value to the people, which are most appreciated by them, and which it would be the greatest mistake to tamper with or alter to their prejudice. Now, Sir, I am firmly convinced that the alteration which will be made by this Bill, in gradually giving a continuous, in place of the present intermittent, supply, will be to the advantage of the people; but I am quite sure also that, just as in the first instance when water-works were established in this town they were opposed by the people, so I am quite certain that these alterations will be opposed when they come to be enforced, that they will be unpopular and that they will be decried. Sir, the Hon'ble Mr. Baker, in consultation with Mr. Hughes and others, has taken the greatest care in all the stipulations contained in the water-works clauses to deal with the change it is proposed to make with the greatest consideration for the people. The works, when they are carried out at a certain cost, will be more sanitary, more economical, in the long run they will save water and make it available for the increased population in the suburbs; they will be more satisfactory to the people, and they will not necessitate inquisitorial visits to their houses. But, Sir, when that system is enforced gradually and step by step, as it is laid down in this Bill that it shall be—it is laid down in the Bill that the alterations are to be enforced within five years in the town and seven years in the suburbs—I say, when these stipulations are enforced step by step, it is absolutely essential, if good results are to be obtained, that the rules which are incorporated in the Bill should be firmly and yet rigidly insisted upon. Hon'ble Members of Council will perhaps hardly follow me, when I say that it is a physical impossibility to enforce the excellent arrangements which are portrayed in this Bill unless in reference to every individual house and in dealing with every individual person the regulations of the Bill are fully carried out. The work of the past has not shown that the Municipality does enforce regulations which are, at first, distasteful. It is essential that the new Municipality should do so or the improvements in the water-supply, contemplated by this Bill, will fail.

“I will now turn, Sir, to the important alterations which will be produced by the sections which deal with buildings. There are five main classes of such alterations. I will not detain the Council in detailing them. The most important are those which deal with the restriction of the area on which any person may build, or, if he re-erects his house, the proportion of the site on which he may re-erect his house. This, Sir, too, will give dissatisfaction; but again I say that it must be firmly enforced if any good to the town is to be obtained.

“One of the next most important points is that which deals with the width of streets. The Corporation will not be able to any large extent in the old town to do, I think, very much good under those regulations; but they will in the suburban part be able to do a great deal of good, and one of the results which will follow from the full execution of all the stipulations of this Bill and other works which are in contemplation will be that a portion of the population of the town will go to the suburbs; and I hope that the new Municipality will look after and will lay out their streets and roads in the suburbs on the principles which are detailed in the Bill.

“The Hon'ble Babu Surendranath Banerjee made some reference to the commercial community and intimated that they were unwilling to contribute their fair share to the expenses of the town. He also said in a former speech that the recommendations of the Building Committee with reference to opening out of the bad parts of this town had not received the consideration of Government, and I think his words were that Government had gone to sleep over them. Sir, I do not think the Hon'ble Member is well informed. I know that

the Government has not gone to sleep on those recommendations, and that the question of opening out large parts of the town is not being neglected. The hon'ble gentleman will remember that one of the proposals made by the Building Commission was the insertion of certain new imposts from which funds would be provided for extensive improvements in the town. He will also remember that one of those imposts was to be one which, if it is imposed, will bear upon the commercial, and only on the commercial, population of this town: that is a jute tax. I do not think, Sir, that he is justified in saying that the commercial population of Calcutta is not willing to bear its share of the burdens that are coming to the town.

"Sir, the arrangements which have to be made with reference to the practical part of the Bill lead me to make one appeal to the new Corporation. We have heard frequently from the Members who have opposed this Bill that everything that goes wrong in the Municipality is the fault of the executive. The cry has been raised over and over again—it is the executive that is in fault! I am not prepared to say that there is not some force in this cry. I think there is: but, Sir, the force, to my mind, tends rather in a direction different to that which is indicated by the Hon'ble Members who have brought forward the charge. The Hon'ble Mr. Apear went so far as to speak of the executive, who have served the Corporation so long, as a body that the Municipality has been unable to trust in the past; and he twitted me, and as I fully admit he has a right to do, with what perhaps may be my hobby horse with reference to this Municipality, the word 'decentralization.' The Hon'ble Babu Surendranath Banerjee has frequently said, and he said it in his speech to-day, that if you pass this Bill, if you do this, that, and the other, why do not you make the Corporation a department of the Government? Sir, my answer to this is also to a large extent my answer to those who constantly, frequently and persistently attack the executive of the Corporation. What, I ask, would be the very first thing the Government would do if it did make the Corporation a department of the Government? I would take one section of the executive establishment with which I have some personal knowledge, the Engineer's Department. One section of the Engineer's Department deals with buildings; it deals with roads, with drains, and with a thousand other things which affect people. The Government also has a staff in this town which deals with buildings, deals with roads, deals with a few drains, and deals with the water-supply to large hospitals, and so on. I have been to some trouble to compare the establishment in the two cases, and, to put the matter shortly, my comparison results in this: that the Government, roughly speaking, pays just double what this Corporation does to its executive staff for the same volume of work. It has in this town two Executive Engineers with a full staff; the Corporation practically has only got one Executive Engineer with, I think, an inefficient staff. I say, Sir, that if your Government were to take over the management of the town, the very first thing they would do would be to carry out substantially a scheme which has been before the Municipality for years, a scheme of decentralisation, a scheme for appointing four officers of the rank of Executive Engineers in different parts of the town to carry out the duties which are imposed upon them. Sir, we have often heard, from the Members who represent the Corporation, how terrible is the corruption which prevails among the municipal underlings. I do not know how far this extends, but of this I am quite certain: that if they would carry out what I have said, and would place responsible officers, who are above suspicion, in such situations that they can be accessible to complainants who have now to pay these bribes, that they will go a long way indeed in abolishing all that corruption. But, Sir, my main object in referring to this matter is not so much to make any suggestion of detail, but it is this: in this Bill there are new duties laid upon the Corporation, and I am quite certain that they will not be efficiently performed unless not only do they reorganise their own doings and their Committees and their Sub-Committees, which section 88 (now 95) allows them to do, but also reorganise, increase and strengthen the executive establishment which they delight to find fault with. That the Bill will do good I have no doubt. That it is perfect I do not maintain; but if the men who can influence this town, and do influence the town, will come forward and will work heartily in view of the responsibility that is placed



upon them, I have no doubt that the Bill must speedily tend to the great advantage of Calcutta."

The Hon'ble MR. BAKER said:—"I do not propose to go over the whole of the debatable ground which has been traversed by so many speakers to-day. I propose only to refer very briefly to two or three points which have been touched upon by the Hon'ble Babu Surendranath Banerjee and one or two other speakers.

"In the first place, Sir, I desire to associate myself with what has fallen from the Hon'ble the Chief Secretary and also from the Hon'ble Mr. Mackenzie in the tribute of admiration which they bestowed on the excellent good temper, patience and courtesy with which the Hon'ble Babu Surendranath Banerjee has conducted his difficult task. That admiration is increased by the really eloquent speech with which he favoured us this afternoon.

"The idea which appears to run through the whole of the arguments and criticisms which have been directed against the Bill is that the Commissioners elected at ward elections are the only representatives of those interests which are entitled to representation, and that they alone are the representatives of the public. The Hon'ble Babu Surendranath Banerjee, in defining local self-government, has said that local self-government means the administration of local affairs by representatives of the local public. With the change of one word I would accept that definition. Instead of 'local public,' I should say 'local interests.' With that change I think the definition is a correct one; but the Hon'ble Member proceeds to misapply it. He assumes that the only representatives of local interests or of the local public are those Commissioners who are elected at ward elections. It is just because the Ward Commissioners do not represent all local interests equally or justly, that we now seek to make this change in the law. We are not seeking to create a new distinction; we are seeking to remove an old one. We are seeking to redress a wrong and an injustice which was not foreseen in the Act of 1876; which was only dimly understood when the Act of 1888 was before the Legislature; but which during the past ten years has become patent for all the world to see. The interests which are represented by commerce and trade are practically excluded from the constitution of the Corporation under the present Act. That is the wrong which we have now set ourselves to redress. The Hon'ble Member said that he would deal with the so-called mud-bank theory, but all that he said was this: he admitted that Calcutta had owed a great deal to European commerce and to European merchants; but, he asked, is not Government also a substantial factor in creating the wealth of Calcutta? Sir, on the 7th August, when I had occasion to deal with this matter, I coupled together the Government and the interests of trade and commerce, and I said that these two great interests taken together had created nine-tenths of the whole value of property in Calcutta. Since then, Sir, my attention has been drawn to a statement that was made by Sir Henry Harrison in 1890. I am quoting from memory, and I cannot therefore be certain of his exact words, but the substance was this: that even if Calcutta remained the seat of the Government of India and the Government of Bengal, yet, if trade and commerce were to be withdrawn from Calcutta, five-sixths of the whole value of property would disappear. Five-sixths of the whole value of the landed property and house property in Calcutta is directly due to the operations of trade and commerce. These interests, if left to the chances of election, would find themselves in a hopeless minority. The European community have from time to time been taunted for abstaining from doing, what is nominally in their power, to serve on the Municipal Board, because they find themselves in a minority. I think, Sir, that those charges come with a very bad grace from gentlemen whose representatives now tell us that the Corporation is about to be closed to the Hindus. In what sense is the Corporation going to be closed? The Hindus if they take advantage of the opportunities which are open to them will have at least one half of the total number of Commissioners on the new Board, and if they continue to discharge their duties with the same vigour, the same knowledge, and I will say with the same ability as in the past, they will exercise, I will not say a dominating, but, at all events, a powerful influence. The

Hon'ble Member said that the agitation against this Bill was not the work of a class; it was common to all classes, high and low; it was common to all newspapers. I will read to the Council a short extract from a paper which has a large circulation in Calcutta—the *Basumati*. The paper is that of the 17th August, and this is what it says:—

‘There are many among us who think that the Viceroy’s decision has destroyed the principle of local self-government. We do not think so. No one will say that self-government is confined to one, and only one, form. There are various ways, various methods, various forms, of self-government. If the existing system of self-government cannot be changed or modified even with a view to improve our present condition, then it is no self-government which we enjoy; it is subserviency to a *form*, to a barren system. The Bill in question no doubt changes the existing form of self-government; it does not destroy its principle.’

The Hon'ble BABU SURENDRANATH BANERJEE said:—“What the Hon'ble Member has just read is not the opinion of the *Basumati*, but a translation of a speech of the Hon'ble Member himself.”

The Hon'ble MR. BAKER said:—“The Hon'ble Member is entirely mistaken. In the first place, I have never said anything resembling these words. And, secondly, the passage is an editorial, and not a report at all. My hon'ble friend Mr. Oldham informs me that the *Bangabasi*, with a much larger circulation, has expressed the same sentiments. This is a translation of what appeared in the *Basumati* on the 17th August. I am certain it is no translation of any speech of mine.”

The Hon'ble BABU SURENDRANATH BANERJEE said:—“I must point out to the Hon'ble Member that the *Basumati* is one of the strongest opponents of this Bill.”

The Hon'ble MR. BAKER said:—“Then they blow hot and cold. Probably they have two editors and more than one policy.”

“I will now turn to a remark which was made by the Hon'ble Mr. Apar. He said the original Bill assumed that there was to be a Hindu preponderance in the Corporation; and he argued, now that you have got rid of the Hindu preponderance, why do you retain the provisions of the original Bill? He was referring to the distribution of powers between the three co-ordinate authorities. Now Sir, if the Hon'ble Member had taken the trouble to compare the original Bill with the Bill as it emerged from the Select Committee, he would have found that there were very material changes; that in very numerous points the Select Committee had transferred powers and duties from the Chairman and the General Committee to the Corporation. And, if he turns to paragraph 12 of the letter from the Government of India, he will find that it was these very changes and that very transference of power to the Corporation which led the Government of India to suggest the modification in the Corporation itself.

“I will now turn, Sir, to one remark which fell from the Hon'ble Dr. Asutosh Mukhopadhyaya. One of the points to which he took serious objection was the unlimited power of delegation which is conferred by the Bill on the Chairman. I listened to his remarks with surprise. The Council will probably remember the fate of the Hon'ble Member's amendment on that very point. I pointed out in a very few words that the effect of the amendment which the Hon'ble Member moved with a view to restrict the Chairman's power of delegation would be to bring the whole work of the Municipality to a standstill within 24 hours. I pointed out that it would be necessary if this amendment was carried that the Chairman and the Engineer in their own persons, those two officers and no one else, must do the whole work of examining the 20,000 water-connections in the town, the 5,000 connected and the 52,000 unconnected privies. On that the Hon'ble Babu Surendranath Banerjee rose and advised his friend to withdraw the amendment, and that advice was accepted. In the face of that, I think the Hon'ble Member is hardly justified in taking exception to the powers of delegation which the Bill confers, and I will just add that those powers are exactly the same, neither greater nor less, than the powers which the Chairman exercises under the existing Act.



"The Hon'ble Member also took exception to the description which I gave this morning of what I conceived to be the functions of this Council. I was careful in the remarks I made to state that I was expressing my own opinion only and was speaking only for myself. The Hon'ble Member entirely demurred to the restrictions which I considered to exist on the powers of this Council, but he was answered in the most complete and the most surprising manner by the Hon'ble Babu Surendranath Banerjee himself. That Hon'ble member asked, why has the Council, which in April, 1898, accepted the view that there should be 75 Commissioners, why is it that in August, 1899, the same Council reduced that number to 50? He told us that this was done simply under a mandate, because that was the direction of the Government of India, because that was the principle which had commended itself to the Executive Government. That, Sir, is exactly my position. When any principles are accepted and laid down by the Executive Government, it is the duty of the Council to accept those principles, and it has no authority to enter upon any legislation which is in conflict with those principles.

"The Hon'ble Babu Surendranath Banerjee complained of the hurry with which the proceedings connected with this measure have been pushed through. He said we had been sitting daily, sometimes from 11 to 5 o'clock, and he might have added sometimes from 11 to 6 o'clock. I would invite the Hon'ble Member to the proceedings in the Council of His Excellency the Viceroy in connection with a much larger and much more contentious measure than this—a measure which is only 18 months old—I mean the Code of Criminal Procedure. The Report of the Select Committee, if I remember rightly, was published on the 17th February, 1898. The Council adjourned until the 4th March. It was again adjourned without any discussion of the measure until the 11th March. The Council met on the 11th March. It sat and discussed the measure on that day and on the following day, and on the afternoon of the 12th March that Bill was passed. It is an Act which is, I think, even larger in mere bulk than the Bill which is now before us. It is infinitely wider in its operation, for it extends to the whole of India; it affects the procedure in every Criminal Court in this country, and it contained also some new matter of a highly contentious character; it had been under consideration for a long time; it introduced many changes in the law, including changes in connection with the law of sedition. Those were certainly important and contentious in the highest degree, and yet the time that was allowed for consideration of that Bill was only three weeks, and the time occupied in the actual discussion was only 48 hours.

"Lastly, Sir, the Hon'ble Member said that this Bill would be one of the least acceptable ever passed by this Council. I find, Sir, that exactly the same thing was said in 1888, when the Bill which is now Act II of 1888 was being passed; and the very gentlemen who are denouncing the measure which is now before the Council at this moment are the staunchest upholders of the Bill which was denounced in 1888 by their predecessors in the Council."

The Hon'ble the PRESIDENT said:—"I congratulate the Council on the completion of this very heavy task. It has been a heavy task. I can recall no measure of legislation in this country which has entailed such prolonged and minute labour. A strong Committee of the Council was engaged on its details for six months. The Council as a Committee of the whole house has sat for eleven days considering the report of their Select Committee and the 565 amendments which were tabled to improve and alter the Bill as it left the Committee's hands. I have never known a Bill subjected to so close and searching a criticism. The 565 amendments concerned 197 of the 641 sections of the Bill. If the minute scrutiny of the most experienced critics ensures the success of a public measure, assuredly no measure had ever more of that scrutiny than this.

"I should like to express my recognition of the general fairness and courtesy with which the discussion has been conducted. The speeches have been for the greater part most interesting, the arguments have been perfectly fair, and we have received a considerable number of excellent practical suggestions, to which the votes of the Council have given their approval. The Hon'ble Mr. Baker has paid a tribute to the Secretary of the Council in which I heartily agree. I must add myself one word of appreciation of the skill and mastery of detail

with which the Hon'ble Member in charge of the Bill bore his important part in these long debates. He was pitted in this arena against the most trained and practised knights of controversy, and he bore himself manfully and well. Thanks to his perfect familiarity with every detail, the Council had the great advantage of a complete statement on both sides of the case on every issue that was raised.

"In the whole course of the discussion the only circumstance on which I look back with regret was one which indeed preceded it. I refer to it with reluctance, but it has been twice dragged into to-day's debate; I mean the simultaneous resignation of twenty-eight of the Municipal Commissioners. I refer to it with regret, because among them were men for whom I entertain a genuine regard and liking, a liking which will be in no whit diminished by our political differences in this matter. We have been honourable opponents in this controversy, and, because we have been so, one laments to see one's adversary put himself at a disadvantage by putting himself grievously in the wrong.

"I pass on to the two simple points in the debate, on which in summing it up I am alone called upon to speak. There have been before this Council two cardinal issues. The first is: why should we change the constitution of the Municipality? The other is: if we change, what form should the change take? The answer to the first issue was given in the long and ample statement with which Mr. Risley introduced this Bill. In the shortest and simplest words, the constitution had not succeeded. On two occasions I have given in Council my personal opinion on this great issue. I have given it with all the courtesy I could command; but I am constrained to repeat that I cannot refuse the evidence of my own eyes and my own experience, that for the better government of Calcutta a material change is imperiously needed. I spoke then, as I speak now, with the utmost courteousness and respect, because of the disappointment and resentment which the statement of this opinion must give to many excellent men. I have given them credit, as I do again for the best of intentions, for an earnestness and assiduity of purpose, which merited better results. But, alas, good intentions do not necessarily lead to good government, and for the capital of India we must ensure a thoroughly efficient conduct of its public affairs.

"Now what was the cause of this failure? It has been explained again and again that the cause was over-centralization, absorption of the executive authority in the hands of the Corporation and of the over-grown Committees, which it amassed on every branch of the administration. I think of all the speeches that have been delivered in this Council the most impressive was one of those of the Hon'ble Mr. Buckley. Several Members of this Council have been members of the Corporation; not one except the Hon'ble Mr. Buckley has been its servant. He was for a time its Engineer, and he told you how impossible it was to get work done. There is no man in this room more calm and dispassionate, no one more sympathetic to the opponents of this measure, and his words came with all the weight of his high character.

"That being the cause, we have to provide its remedy. The Bill leaves to the Corporation the power of the purse, the raising and distribution of the funds, and the decision on all the broad issues of the municipal administration, but it decentralises the executive authority. That is placed in the hands of a limited Committee, and of the Chairman acting under its sanction and control. In this Committee are equally represented the three great interests of the city—the rate-payers, the merchants and the Government. Against this adjustment, there is the one passionate outcry, that it is a destruction of local self-government. Twice I have said that it is not. I have to say it yet once more. True, it terminates one form of it that has not answered, but it substitutes another. No Government in the world could stand which stolidly refused to amend its constitution as experience dictated. In England, the home of self-government, the system and method of self-government have been steadily altered as experience was gained. When the vested interests of the ancient vestrymen were touched, precisely the same outcry was raised which we have heard in this Chamber. But England, with all possible tenderness to the



disappointed vestry-men, went patiently and firmly on. The change was needed, the change was made, and self-government stands on a stronger, because on a more efficient, basis than before.

"So it will be here. Eloquent declamations of a retrograde Government will doubtless continue, but, as time goes on, the sound sense of the community will prevail. The people will recognize the advantage and convenience of a more prompt and efficient administration, and the very men, whose earnestness of purpose has been the bright particular star in all this stormy quarrel, will come to see that under the new system they will have gained a new authority and a real power to achieve good for their fellow-citizens, which was constantly hampered and thwarted under the system which ends.

"Before I close I should like to say one word, if I may intrude so small a matter, about my personal share in this controversy. I trust that I may claim to have been throughout my service a friend of India and of the Indians. That is no credit. It is certainly no boast. It is the simple duty of every Englishman in India. But to me it has been a quadrupled duty. Four generations of my name have eaten the salt of India, and I am the last. On me it was incumbent to do all that in me lay to help and forward the people of this generous country. The sands of my official life are fast running out. Is it possible, is it conceivable that, except under the cogency of a plain and clear necessity, I should set my hand to a measure which I know must hurt and wound those whom I seek to serve? I have been told—not in this Council, for my colleagues know me too well—but I have been told in the plainest terms that I shall be excommunicated for my part in this matter. I venture to hope not, but were it so I should still unfalteringly do my duty. I stood once at the bed-side of a famous Indian officer. A surgeon performed an operation which saved his life, but in the moment of his agony he anathematized the surgeon as inhuman. Even out of evil, perhaps always out of evil, cometh good, and out of all this pain and wrangle there will emerge a new order, and with it a new prosperity to this great city."

The motion being put, the Council divided as follows:—

*Ayes 12.*

The Hon'ble Mr. Buckley.  
The Hon'ble Mr. Buckland.  
The Hon'ble Mr. Handley.  
The Hon'ble Rai Durga Gati Banerjee,  
Bahadur.  
The Hon'ble Mr. Mackenzie.  
The Hon'ble Mr. Spink.  
The Hon'ble Sahibzada Mahomed Bakhtyar  
Shah.  
The Hon'ble Khan Bahadur Maulvi  
Delawar Hosain Ahmed.  
The Hon'ble Mr. Oldham.  
The Hon'ble Mr. Baker.  
The Hon'ble Mr. Bolton.  
The Hon'ble Mr. Slack.

*Noes. 6.*

The Hon'ble Raja Ranajit Sinha, Bahadur,  
of Nashipur.  
The Hon'ble Babu Jatra Mohan Sen.  
The Hon'ble Babu Boikanta Nath Sen.  
The Hon'ble Babu Surendranath Banerjee.  
The Hon'ble Mr. Apcar.  
The Hon'ble Dr. Asutosh Mukhopadhyaya.

So the motion was carried.

The Council was then adjourned *sine die*.

CALCUTTA ;  
The 16th January, 1900. }

F. G. WIGLEY,  
Asst. Secy. to the Govt. of Bengal,  
Legislative Dept.

*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,  
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Wednesday, the 20th December,  
1899.

*P r e s e n t :*

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal,  
*presiding.*

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEE, BAHADUR, C.I.E.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. A. SLACK.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble MR. J. PRATT.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.



## NEW MEMBER.

The Hon'ble MR. PRATT took his seat in Council.

## STATEMENT BY THE PRESIDENT.

The Hon'ble THE PRESIDENT said :—"Gentlemen of the Council, I am sorry that I have been compelled to ask your attendance after so short a recess. Many of you were present at the Durbar of Saturday last, and I then explained the reason for the assembly of the Council. The main business before you will be a Bill enlarging the Municipal Act in regard to Darjeeling. As I said on Saturday, time is in this matter of unusual importance; for, if anything is to be done to prevent further damage to life and property in that Municipality, the necessary works must be pushed forward as far as possible before next rains. The provisions of the Bill will be explained to you presently by the Hon'ble Member in charge of it, and I will not myself intrude upon his province.

"The Council will reasonably expect from me some statement in regard to the revised regulations for the Council which have been recently published in the Gazette of India. The question of the revision of the rules of 1893 was raised last year by the British Indian Association, who represented that the privilege of recommending a Member should be extended to the landholders, and a report was submitted to the Government of India, by whom the opinion of this Government was also desired, as to whether five years' experience of the working of the regulations suggested any alteration of them. The regulations of the Bombay Council provide for the recommendation of a Member by the Sirdars of the Dekkhan or such other class of landholders as might from time to time be prescribed; as also of a representative of the landholders of Sind; and in the North-West Provinces any association or associations of landholders may also be invited to recommend to seats in the local Council. In Bengal, on the other hand, the regulations gave no right of recommendation to the landholders; the corresponding provision being that ordinarily one of the seats to which the Lieutenant-Governor nominates at his discretion should be held by a representative of the great landholders of the province. The desire of the zamindars to be accorded the privilege of themselves recommending a Member appeared, therefore, reasonable, and it remained to consider in what way the request conveyed by the British Indian Association could be met without affecting the directly representative element in the Council. Of the seven seats reserved for recommendation by public bodies and Associations, the Corporation of Calcutta, the Senate of the Calcutta University and the Chamber of Commerce as a commercial Association have each been assigned one, and from none of them could the privilege of recommendation have been possibly withdrawn. It was necessary, therefore, to find a seat for the landholders from the remaining four seats allotted to the District Boards and to the Municipal Corporations other than Calcutta. These seats represent the interests of the population of the districts, and special representation of the landholders fulfils the same condition. The transfer of one of them to the landholders does not, therefore, detract from the representation of those interests. In considering whether the seat should be taken from the Municipal Corporations or the District Boards, this Government was influenced by the fact that the District Boards represent an overwhelming majority of the population, while the Municipal Boards represent the special interests of a total urban population of less than three millions. Municipal interests are, moreover, also represented in the Council by the Member for the Calcutta Corporation. The transfer of one seat from the municipal bodies to the landholders was, therefore, recommended, and the change has been embodied in the new regulations. The Lieutenant-Governor will retain his right of nominating to three seats. I think my predecessors were right in the opinion that this number is necessary for the proper representation of communities that might not otherwise obtain representation at all, or for the fuller representation of the interests specially affected by measures brought before the Council. No change can ever be made without disappointment to some, but an

impartial opinion will not, I think, hesitate in agreeing that the great associations of the landholders of Bengal are entitled to a direct and permanent representation in the Council. The municipal bodies there is no reason for disturbing in their representation at present, and the assurance which I gave to the municipalities of the Dacca Division will be fulfilled.

### QUESTIONS AND ANSWERS.

#### LADY STUDENTS IN THE PRESIDENCY, BETHUNE, RAVENSHAW AND GOVERNMENT ARTS COLLEGES.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA asked—

I. Has the attention of the Government been called to the fact that young ladies are now admitted to the different classes of the Presidency College as students, and that they are allowed seats in the same class rooms with young men, while lectures are delivered?

II. Will the Government be pleased to enquire and state whether young men and ladies reading for Degree Examinations in Arts, at either Oxford or Cambridge, are in any, and if any what, College admitted as members and taught in the same class rooms?

III. Will the Government be pleased to lay on the table copies of the following papers:—

- (1) A despatch from the Court of Directors of the East India Company to the Governor General of India in Council (No. 49, dated 19th July, 1854).
- (2) Letter No. 29, dated 5th May, 1854, from the Government of India to the Court of Directors, relating to the establishment of a Presidency College at Calcutta.
- (3) Despatch from the Court of Directors to the Government of India (No. 62, dated 13th September, 1854).
- (4) Despatch from the Secretary of State for India to the Government of India (No. 4, dated 7th April, 1859).

IV. Will the Government be pleased to state whether it is not quite clear from the documents mentioned above, specially from paragraphs 57, 83 and 90 of the Despatch of 1854, and from paragraphs 25, 26, 27, 28, 29, 30 and 47 of the Despatch of 1859, that it was contemplated that there should be separate institutions for the education of males and females?

V. Will the Government be pleased to enquire and state whether any, and if any what, special arrangements and precautions have been found necessary for the proper protection of the lady students admitted to the Presidency College?

VI. Will the Government be pleased to enquire and state if it has been found necessary to punish a student for ungentlemanly conduct towards any of the lady students?

VII. Will the Government be pleased to enquire and state whether it is true that scandalous scribblings have recently been found on the walls of the Presidency College, referring to some of the lady students, and that no detection of the offender has been found possible?

VIII. Will the Government be pleased to enquire and state the respective dates on which the first lady student passed the Entrance, F.A. and B.A. Examinations of the Calcutta University: also the number of the lady students who have passed the F.A. and B.A. Examinations since these dates, and also how many of these passed as private students and how many as students of an affiliated institution other than the Presidency College?

IX. Will the Government be pleased to state whether in recent years any, and if any what, exceptional circumstances have happened to render it necessary that the Presidency College should be thrown open to lady students?

X. Will the Government be pleased to state whether the Bethune College is furnished with an adequate staff for the education of female students up to the F.A. and B.A. Standards, whether it is efficiently managed, and whether the results have been found satisfactory?

XI. Will the Government be pleased to enquire and state whether within the last five years any applications have been made by lady students for



admission into the Ravenshaw College, Cuttack, and what orders, if any, have been passed upon each of such applications?

XII. Will the Government be pleased to state—

(i) whether it is desirable, and

(ii) whether the Government intends,

to allow lady students to continue to obtain admission into Government Arts Colleges and to be taught in the same class rooms with young men?

The Hon'ble MR. SLACK replied to the above questions as follows:—

"I. Yes."

"II. Young ladies reading for the Degree Examination in Arts both at Oxford and Cambridge are not admitted as members to any of the Colleges to which men belong, but are admitted to the College lectures given to the undergraduates. Instances of such Colleges are Exeter, Balliol, Queen's, Corpus Christi, Wadham."

"III. These are put on the table."

"IV. Assuming that the higher education of women was considered in 1854, when the documents referred to by the Hon'ble Member were drawn up, there is nothing in such documents to show that the Presidency College was intended exclusively for males, nor is there anything to show that in 1854 Government contemplated that no female should be educated save in a school specially set apart for females to the exclusion of males.

"The answer, therefore, to the Hon'ble Member's question is in the negative."

"V. A separate waiting-room has been provided for the lady students, and they have separate accommodation in the lecture-room."

"VI. Government has been informed that in two cases students were punished for ungentlemanly conduct towards lady students. The offences in both cases were trivial."

"VII. It is the case that such scribblings were found on the walls of two of the rooms in the College, and that the offenders were not detected."

"VIII. Statements giving the information asked for have been supplied to the Hon'ble Member.

*Table showing the number of Lady Students that came up for the Entrance Examination of the Calcutta University and the number passed since 1876.*

Year.			Number of candidates.	Number passed.
1876	...	...	1	1
1877	...	...	...	...
1878	...	...	1	1
1879	...	...	1	...
1880	...	...	6	4
1881	...	...	10	8
1882	...	...	4	2
1883	...	...	11	9
1884	...	...	...	...
1885	...	...	52	11
1886	...	...	52	23
1887	...	...	55	38
1888	...	...	52	31
1889	...	...	47	23
1890	...	...	51	26
1891	...	...	57	40
1892	...	...	61	27
1893	...	...	73	42
1894	...	...	68	29
1895	...	...	88	49
1896	...	...	46	35
1897	...	...	82	56
1898	...	...	78	32
1899	...	...	63	42
Total			959	529

*Statement showing the number of lady students that came up for the F.A. and B.A. Examinations of the Calcutta University and the number passed since 1880.*

YEAR.	F.A.				B.A.			
	Number of candidates.	NUMBER PASSED.			Number of candidates.	NUMBER PASSED.		
		Students belonging to institutions.	Private students.	Total.		Students belonging to institutions.	Private students.	Total.
1	2	3	4	5	6	7	8	9
1880	2	2	...	2	...	...	...	...
1882	1	...	...	...	...	...	...	...
1883	7	5	...	5	2	2	...	2
1885	2	...	...	...	...	...	...	...
1886	4	4	...	4	3	2	...	2
1887	2	...	...	...	2	2	...	2
1888	11	6	...	6	...	...	...	...
1889	14	6	...	6	...	...	...	...
1890	9	7	1	8	4	3	1	4
1891	8	5	...	5	1	1	...	1
1892	9	5	...	5	4	1	...	2
1893	14	9	1	10	5	3	...	3
1894	9	6	...	6	3	1	1	2
1895	8	5	1	6	6	...	1	1
1896	12	8	...	8	5	2	...	2
1897	15	10	2	12	3	1	1	2
1898	14	7	4	11	8	4	...	4
1899	16	10	2	12*	7	4	...	4
Total ...	157	95	11	106	53	26	5	31

\* Including two Presidency College students, who are the only lady students who have ever passed from the Presidency College.

No lady students have ever passed the B.A. from the Presidency College.

"IX. There is nothing to show that the Presidency College was reserved entirely for male students."

"X. The answer to the first part of the question is that provision has not been made at the Bethune College for teaching all the courses. It was, at the instance of the Secretary of the Bethune College Committee, that the female candidates who are reading in the Presidency College were admitted there instead of at the Bethune College, so that they might take up Physics and Chemistry instead of Botany."

"XI. Yes; and at present a lady student is studying in the M.A. class.

"XII. In the opinion of Government it is desirable that female students, who desire it, should be allowed equal facilities with male students for education. It is impossible to provide separate instruction of the calibre of that of the Presidency College to the small number of lady students who at present come forward. If then Government can be sure that there is a genuine desire by female students, under the approval of their guardians, to enter the highest courses of college education, and if it is certain that proper discipline can be maintained, the admission of female students to institutions ordinarily reserved for the education of males appears to be justified. The experiment accordingly was made in 1897, and, according to the information at the disposal of Government, with so much success as to give no present grounds for interfering with it."



## EXPENDITURE ON WATER-SUPPLY IN THE MUFASSAL.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, of Nashipur, asked—

Having regard to the fact that all the District Boards of Bengal have not spent even the minimum of Rs. 5,000 out of their income every year for the improvement of water-supply in the mufassal as directed by the Government in their Resolution on the working of District Boards during 1894-95, will the Government be pleased to direct the District Boards to carry out the orders of the Government strictly, and to give particular attention to the subject, especially in those parts of the districts where malarial fever and cholera generally rage?

The Hon'ble MR. BAKER replied:—

“On the 15th April, 1899, I informed the Council of the orders issued by Government on the subject of improving the water-supply of the mufassal; and on the 5th August I supplemented this by laying on the table a statement showing the expenditure incurred by the District Boards and Municipalities of every division on water-supply during the past five years. This matter receives the constant attention of Government and is regularly noticed in the annual review of the working of District Boards and Municipalities. The Lieutenant-Governor is in entire sympathy with the desire of the Hon'ble Member that a pure supply of water should be provided throughout the country; but it is evident that in such a matter progress must be methodical and gradual.”

## PLAGUE IN CALCUTTA.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, of Nashipur, asked—

Having regard to the fact that in the published vital statistics for Calcutta there appears almost an uniform number of deaths and seizures from plague, and to the fact that many people do not believe these cases to be plague, will the Government be pleased to appoint a Committee of expert medical men to report if the cases now occurring, and reported to be plague cases, are cases of real bubonic plague?

The Hon'ble MR. BAKER replied:—

“A few weeks ago the Lieutenant-Governor arranged to depute two specially selected Assistant Surgeons for a time to test the correctness of the reports of plague cases in Calcutta. The enquiry is not yet complete, but so far it goes to show unfortunately that cases of genuine plague unquestionably do exist in the town.”

## THE ZAMINDARI DAK CESS.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, of Nashipur, asked:—

Will the Government be pleased to lay on the table a statement showing the receipts on account of the zamindari dak cess for each district in Bengal for the last ten years, and the expenditure incurred during that period on account of the establishment kept up in each under the provisions of Act VIII of 1862?

The Hon'ble MR. SLACK replied:—

“The Statement is laid on the table.”

## THE LOOP LINE.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, of Nashipur, asked:—

Has the attention of the Government been drawn to the inconveniences felt by the people for want of convenient up and down trains by the

loop line from and to Calcutta, the centre of traffic and commerce, just as passengers can avail themselves of by the chord line? Will the Government be pleased to direct the Railway authorities to make the necessary alteration in the railway timing to suit loop passengers, and thereby remove their grievances?

The Hon'ble MR. BUCKLEY replied:—

“The answer to the first part of the question is, Yes.

“The answer to the second part of the question is, during 1898 the inconvenience was represented to Government. The East Indian Railway authorities were addressed on the subject, with the result that the timing of two trains, No. 13 Up and No. 14 Down, was altered to connect with the Bombay Mail. This alteration was acknowledged by the Commissioner of the Bhagalpur Division as a great boon to the travelling public. Since then no further complaint has been made to Government.”

### DARJEELING MUNICIPAL BILL.

The Hon'ble MR. BAKER moved for leave to introduce a Bill to amend the Bengal Municipal Act, 1884, in its application to Darjeeling. He said:—  
“It will not be necessary for me to take up very much of the Council's time in explaining the necessity for the legislation or the general nature of the amendments which we propose to make in the law.

“The necessity for supplementing the powers of the municipal authorities in Darjeeling by enacting a measure drawn with special reference to the peculiar needs of that station has been thrown into acute relief by the disastrous cyclone of September last.

“The rainfall last season in Darjeeling was unusually heavy, being 17 inches above the average on the 24th September. During the 24 hours ending at 8 A.M. on the 24th September  $5\frac{1}{2}$  inches fell, followed by 19 inches before 4 A.M. of the following morning. Of this amount, more than 14 inches fell between 4 P.M. of the 24th and 4 A.M. of the 25th, making an average of more than an inch an hour for twelve hours continuously. This unprecedented fall, following on an already excessive seasonal rainfall, resulted in numerous and disastrous landslips throughout almost every part of Darjeeling, causing the loss of 72 lives, and extensive destruction of roads, houses and other property.

“Early in October, the Government appointed a Committee, consisting of Engineers and residents of Darjeeling, under the presidency of Mr. Joscelyne, Chief Engineer, to inspect and report on the condition of buildings, roads and drains in Darjeeling, and to submit recommendations for such protective measures as they might think necessary.

“The Committee made a very thorough and searching investigation. They visited every part of Darjeeling, examined the condition of almost every building, road or drain which had suffered material damage, and, with the assistance of the owners of the property, endeavoured to determine the causes of the injury in each case. They received very valuable assistance from Mr. T. H. Holland, of the Geological Survey Department, whose services were specially lent by the Government of India. Their Report, which was published in the Calcutta Gazette a few weeks ago, clearly traces the causes which led to the loss of life and property, and indicates the measures which are required in order to ensure safety in the future.

“The Committee have shown that the direct and immediate cause of the landslips was the excessive rainfall concentrated into a very short space of time. But they also show that there were a number of contributory causes, all of human agency, which facilitated the occurrence of the slips, and greatly increased the damage done by them. The chief of these may be summarized as follows:—

- (1) Defective drainage of building-sites.
- (2) Excessive lead of road drains.
- (3) Imperfect or badly constructed revetments.
- (4) Neglect to reduce or protect steep slopes.



- (5) Under-cutting of steep slopes for the formation of paths, roads and out-houses.
- (6) Quarrying and removing of stones from *ghoras* and hillsides.
- (7) Defective supervision of building-sites, including sites of huts.
- (8) Absence of power to regulate quarrying, or to deal with natural water-channels, outside municipal limits.
- (9) Insufficient turfing, and omission to plant suitable trees.
- (10) Construction of gardens and flower-beds in unsuitable places.
- (11) Formation of cattle-runs by indiscriminate grazing of cattle on hillsides.

"If all of these matters can be properly attended to, the occurrence of landslips in the future will be rendered less probable; and, if they do unfortunately occur, the destruction of life and property caused by them will be reduced to a minimum.

"The object of the Bill which I ask permission to introduce is to take legal power to deal effectively with these matters.

"The present municipal law in force in Darjeeling is Bengal Act III of 1884, amended by various Acts of 1886, 1894 and 1896. This measure was framed with reference to the requirements of municipalities in the plains of Bengal. With the exception of two sections, 232 and 350A, it contains, so far as I am aware, no provision for the special needs of a town situated in the hills, where the rainfall is enormous, and which is constantly exposed to danger from landslips. It is entirely silent as to such matters as revetments, retaining walls, the turfing of banks, and the sloping of hillsides to the proper angle of safety. As regards drainage, it treats the subject wholly as a measure of sanitation, and takes no account of the aspect which is so important in the hills, *viz.*, the view of it as a means whereby large masses of rain-water can be passed away safely without injury to the hillside. It confers no power to close permanently any public road notwithstanding that it may have become a source of danger to property situated above or below it. It gives no power of control over private roads or bridges, and very little power over drains on private property, although in the hills these may be such as to seriously threaten the safety of the public. As regards the Building Regulations, these are imperfect even as applied to towns in the plains; but, as applied to a town situated on a steep mountain side, they are almost useless. No one could have walked round Darjeeling in the month following the cyclone, no one can study the Report of Mr. Joscelyne's Committee, without being convinced that much of the lamentable loss of life, especially among servants and the residents of huts and bustees, was directly due to want of control over buildings and sites. In a hill town nothing is more essential than the power to refuse permission to build on an unsuitable site. This power is wholly wanting in the present Act. In Appendix IV of the Report it is pointed out that 'power is required to absolutely prohibit building on a proposed site, and to absolutely prohibit the re-erection, rebuilding, any alteration or repair of or addition to a building on a site already used' without payment of compensation; and under the present law no such power exists.

"The Bill which it is proposed to introduce has been framed to make good all these defects. It follows generally the recommendations made by the Committee in their Report and in Appendix IV, and it has been drafted in consultation with Messrs. Earle, Upton and Gardiner, who were members of the Committee, and who formed the Sub-Committee which drew up Appendix IV. This Appendix, which contains most of the specific proposals for amendment of the Act, was considered at a meeting of the chief house and land owners of Darjeeling convened for the purpose, and was approved by them subject to certain minor modifications which have been accepted by Government.

"It may be as well to give a brief account of the leading provisions of the Bill. The first point to which I need allude is one to which my attention has been drawn by an Hon'ble Member this morning. The Hon'ble Member had seen a copy of the Bill which had been placed on Members' tables, and was struck with the second section, which gives power to the Local Government, on the recommendation of the Commissioners, to extend the provisions of the Act to any area adjacent to Darjeeling; and the Hon'ble Member expressed some

apprehension as to the particular object of this provision. The explanation of this section would come more appropriately at a later stage of the Bill; but I may now say briefly that the object is to enable the Municipal Commissioners to prevent improper building operations, improper excavations and improper dealings with water-courses and hill streams in the immediate vicinity of Darjeeling or underneath the limits of the Municipality. In the valleys on both sides of the town there run two mountain streams, one of which is called the Rungneet, and the name of the other I forget. These streams, if left to themselves, are liable to cut away their banks, and by so doing the vertical supports of the hillsides within the limits of the Municipality itself have been removed. It is in order that proper protective works may be constructed along the banks of these streams, and in order that people who own property on the lower slopes of the hillsides may be prevented from making improper excavations, that the provision to which the Hon'ble Member has referred has been considered necessary. The operations to which I have referred have become a source of danger to life and property.

"Turning to the general provisions of the Bill, I may say, firstly, that, as regards roads and bridges, power is taken to close a public road which endangers a hillside, or which can no longer be maintained except at unreasonable expense. Another section confers powers of inspection and control over private roads, drains and bridges. By another section the construction, reconstruction and alteration of private roads and bridges is made subject to the sanction of the Commissioners. Other sections of great importance give power to enforce the alteration or protection of any private road or bridge which threatens the stability or security of any hillside or bank or any immovable property thereon; and, in extreme cases, to close such a road altogether, unless it forms the only approach to a house.

"The provisions as regards drains are generally similar to those regarding roads. The previous sanction of the Commissioners is to be required to the construction, reconstruction or closing of any private drain. They will have power to enforce the regrading or reconstruction of any private drain which is imperfect or dangerous to other property. And they will also possess the very valuable power of carrying out combined works of drainage for buildings or lands belonging to different owners, and apportioning the cost among them.

"As regards buildings, we have followed the general lines of the new Calcutta Act, but have considerably simplified them, and adapted them to the special circumstances of Darjeeling. We provide that before the construction of any building is undertaken an application for approval of the site, and for permission to undertake the work, with full particulars, must be submitted: and, differing from the Calcutta Act, we make no provision to the effect that, if permission has neither been given nor refused within a fixed time, it shall be deemed to have been given. Such a provision may be reasonable in the plains to protect the rights of private owners. But in the hills the danger resulting from improper building is so great that private rights must give way. The grounds on which permission may be refused have been extended so as to include insecurity of the site or danger to the hillside. Provision is made for inspection of the work, and for enforcing compliance with the conditions on which sanction was accorded, and for stoppage, and if necessary demolition, of unauthorised works under the orders of a Magistrate. Power is also taken to prohibit the occupation of unsafe or insanitary buildings and for the forcible removal of persons occupying them, and for the abatement of overcrowding.

"By another group of sections power is taken to enforce the construction of revetment walls, the turfing of banks, and the sloping of hillsides to the proper angle of safety, where these measures are necessary to secure the safety of life or property. We have also amplified the power of making byelaws so as to comprise several matters which are of special importance in a hill station.

"An important group of sections relates to the subject of appeals. As I have explained, the Commissioners will have power to call upon private owners to carry out protective works of various kinds, either singly or in combination, and in the latter case to apportion the cost among them. It is not proposed to allow these orders to be questioned in the Civil Courts, which are



not well adapted to determine difficult questions of engineering with the requisite promptness and certainty. We have, therefore, proposed to make independent provision for appeals of two kinds—firstly, in all cases in which orders are passed by the Commissioners in matters involving professional engineering knowledge, such as where an order is given to dismantle an insecure building, or to construct a drain or a revetment, or where permission to use a site or construct a building is refused, an appeal will be allowed to an Engineer of higher rank than Executive Engineer, to be appointed by Government in that behalf. Secondly, in cases where the apportionment of expenses is involved, an appeal will lie to the Commissioner of the Division, aided by two assessors, who will be selected from a special list kept for the purpose and who will ordinarily be house or land owners of the town. This arrangement is in accordance with the recommendations made by the meeting of land and house owners to which I have already referred.

“There remains only a small group of sections, the operation of which is to be temporary, empowering Government to exercise certain of the powers of the Municipality under the Bill in respect of roads, drains and buildings. This was proposed by the Committee, and was approved by the meeting of house and land owners to which reference has been made; and an application of similar character has also been made to Government by the Municipality. Government will bear the charges on account of the roads, drains, &c., so long as they remain under its control; but, as soon as they go back to the Municipality, the latter will have to meet them as hitherto.

“Lastly, Sir, I have to represent that this measure is a matter of urgency. In Darjeeling the working season for roads and buildings is in the cold weather and spring. That season has now begun, and works of repair and protection are already in progress throughout the station. It is essential that before the next rainy season arrives the damage done by the landslips shall be made good as far as possible, and it is desirable that no time should be lost in obtaining the fuller powers of supervision and control for which the Bill provides.”

The motion was put and agreed to.

The Hon'ble MR. BAKER applied to the President to suspend the Rules of Business for the purpose of introducing the Bill.

The Hon'ble THE PRESIDENT having declared the rules suspended,

The Hon'ble MR. BAKER introduced the Bill and moved that it be read in Council.

The motion was put and agreed to, and the Bill was read accordingly.

#### AMENDMENT OF BENGAL ACT I OF 1869 (*Cruelty to Animals*).

The Hon'ble MR. SLACK moved for leave to introduce a Bill to amend Bengal Act I of 1869 (*an Act for the prevention of cruelty to animals*). He said:—“This is a very small measure, but as the Bill is not at present before Hon'ble Members I do not propose to explain now the details of the measure beyond stating that it attempts to render the existing Act more effective, and also to ensure proper treatment for suffering animals.”

The motion was put and agreed to.

The Council was then adjourned to Saturday, the 6th January, 1900.

CALCUTTA ;

The 16th January, 1900.

F. G. WIGLEY,

Asst. Secretary to the Government of Bengal,

Legislative Department.



# SPECIAL SUPPLEMENT TO The Calcutta Gazette.

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WEDNESDAY, FEBRUARY 14, 1900.

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*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,  
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Saturday, the 6th January,  
1900.

Present :

- The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal,  
*presiding.*
- The Hon'ble Mr. W. B. OLDHAM, C.I.E.
- The Hon'ble Mr. R. B. BUCKLEY.
- The Hon'ble Mr. C. W. BOLTON, C.S.I.
- The Hon'ble Mr. E. N. BAKER.
- The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.
- The Hon'ble Mr. C. E. BUCKLAND, C.I.E.
- The Hon'ble Mr. F. A. SLACK.
- The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.
- The Hon'ble Mr. J. PRATT.
- The Hon'ble BABU JATRA MOHAN SEN.
- The Hon'ble Mr. T. W. SPINK.
- The Hon'ble RAJA SASHI SHAKHARESWAR ROY, BAHADUR, OF TAHIRPUR.
- The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR.
- The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.
- The Hon'ble Mr. D. F. MACKENZIE.
- The Hon'ble Mr. J. G. APCAR.
- The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.
- The Hon'ble BABU SURENDRANATH BANERJEE.



## QUESTIONS AND ANSWERS.

## ELECTION OF MUNICIPAL COMMISSIONERS

The Hon'ble MR. D. F. MACKENZIE asked :—

Has the attention of Government been called to an article in the *Reis and Rayyet* published on 9th December, in which it is alleged that no valid election of Commissioners can be held under the new Calcutta Municipal Act in March next?

Does the Government consider that the suggestion in the article is well founded? And, if so, what action does Government propose to take in the matter?

The Hon'ble MR. BAKER replied :—

“The attention of Government has been drawn to the article in question. The point now raised by it was brought to notice while the Calcutta Municipal Bill was under consideration; and the Government was then advised that the provisions of the Bill relating to the initial elections in March, 1900, were properly framed and were not open to objection.

“After the publication of the article in the *Reis and Rayyet* referred to in the question, the matter was referred to the present Advocate General, whose opinion is to the following effect :—

‘Act III (B.C.) of 1899 was first published in the Calcutta Gazette with the consent of the Governor General on the 22nd November, 1899, and by such publication section 42 of that Act came, as I read the Act, into force on that date, though the Act in its entirety does not come into operation until the 1st April, 1900, and repealed so much of section 15 of Act II (B.C.) of 1888 as empowers the electors of each of the 25 wards into which Calcutta is for municipal purposes divided to elect two Commissioners, and so much of section 19 as provides for the holding of a general election to take effect from 1st April, 1901.

‘For these reasons, I am of opinion that section 42 of Act III (B.C.) of 1899, read with section 1 of that Act, is sufficient to legalise a general election of one Commissioner for each of such 25 wards under Act II (B.C.) of 1888 at such time in March, 1900, as may be appointed by the Local Government.’

“The suggestion made in the article is, therefore, not well founded, and no action on the part of Government is necessary.”

## THE DARJEELING MUNICIPAL BILL.

The Hon'ble MR. BAKER moved that the Bill to amend the Bengal Municipal Act, 1884, in its application to Darjeeling be referred to a Select Committee consisting of the Hon'ble Mr. Oldham, the Hon'ble Mr. Buckley, the Hon'ble Mr. Buckland, the Hon'ble Babu Jatra Mohan Sen, the Hon'ble Dr. Asutosh Mukhopadhyaya, the Hon'ble Babu Surendranath Banerjee and the mover, with instructions to report in a fortnight.

He said :—“When introducing the Bill, I described its chief provisions and the general object of it at some length. The Bill has also now been in Members' hands for a fortnight. It is, therefore, not necessary for me to go over this ground again.

“On these occasions, however, when a motion is made to refer a Bill to a Select Committee, it is usual to discuss and settle the principles of the measure, and I will endeavour to do this on the present occasion.

“In one sense this is a comparatively easy task; for the Bill now before the Council is essentially a measure of details. No constitutional questions are raised in it. It is of very limited operation, applying only to a single Municipality. The structure of the Municipality is untouched. None of the existing functions, powers or obligations of the Commissioners are affected. What we desire to do is to supplement their powers in respect of certain matters concerning roads, drains and buildings in which the provisions of the present law are defective in such a town as Darjeeling. And this we seek to do by enacting supplementary provisions dealing with each detail which we have

in view. The Bill, therefore, takes the form of a series of isolated amendments of the Act, and it might be supposed that there are no broad general principles on which it is based.

"It will be found, however, that there are two ruling ideas round which all these detailed provisions group themselves, or rather one ruling idea which divides itself naturally into two parts. This ruling idea runs throughout every part of the Bill. It is essential to it, and not merely incidental; and I propose to ask the Council to accept it as the governing principle of the measure. It can be stated very briefly. The first part of it is that, in order to ensure the public safety, it is essential that the construction of all works in Darjeeling, by which I mean roads, drains, buildings and bridges, private as well as public, shall be strictly subject to the approval and sanction of the Commissioners. And I should explain that I use the term construction in a broad sense, including re-construction and any extensive or material alteration. The second part of the principle is that it is essential that the Commissioners should have power to enforce the execution of protective works where these are necessary for the public safety, and, if necessary, power to carry them out themselves at the cost of the owners of the property affected.

"It will be found, I think, that almost every provision of the Bill can be referred to one or other of these ruling principles. I do not suppose that either proposition is likely to be called in question. Indeed, when stated simply, they are almost self-evident, and I do not propose to enlarge upon them at any length. No one who knows Darjeeling, or who has studied the report of Mr. Joscelyne's Committee, is likely to doubt that the primary causes of the recent loss of life and property were improper buildings, improper roads and improper excavations. To prevent the construction of these in the future they must be brought under strict control; and this can best be done by making them subject to the previous sanction and approval of the Municipal authorities, and giving the latter effective power to insist on their orders being carried out. The second part of the principle is really a mere corollary or extension of the first part. No man can be permitted to construct a house or a drain which endangers the lives or property of the public: and, similarly, no man can be permitted to allow a house or a drain already constructed to get into such a condition as to endanger the lives or property of other people. If it does so, the Municipal authorities must have power to compel him to put things right. I wish to go further than this. It may happen that the house or the drain is still good enough by itself, but, in consequence of changes which have occurred on the hillside since it was constructed, it may have newly become a source of danger to other property. In that case also I think it cannot be questioned that the owner may fairly be required to construct protective works. This is a perfectly just and reasonable proposition. Landed property on a steep mountainside is necessarily precarious, and it does not in the least follow that, because a house or a road was secure when it was first constructed, it will not become a source of danger hereafter. Power must, therefore, be reserved to enforce the construction of protective works at any time. This, I may mention, is perfectly well understood by house-owners in Darjeeling.

"I do not think I need say anything further on the present motion."

The Hon'ble RAJA SASHI SHAKARESWAR ROY, BAHADUR, OF TAHIRPUR, said:—  
"It is, I think, Sir, necessary that I should lay before Your Honour the fact that I have received communications from Darjeeling, which, if I understand aright, mean that the people there are not yet quite ready to pronounce their opinions fully on the Darjeeling Municipal Bill. The opinions which have reached my hands up to this time are, I am afraid, not very favourable towards the Bill. In fact, the people there—at least a portion of them—seem to be frightened at some of the provisions of the Bill, especially the immense power which we are going to give into the hands of the Municipal Commissioners, without giving a Civil Court remedy for the would-be sufferers. They have particularly requested me to bring to Your Honour's notice that they want some time—time sufficient, at least—to read, to digest and to think over the



provisions of the Bill, which contains more than 359 sections. It is quite true the matter is urgent. For the protection of the hill it would be necessary, as I understand, to commence the business of construction and destruction before the rains set in. But whether the time we are allowing between this and the passing of the Bill is quite sufficient for collecting the views and opinions of persons most concerned—I mean the landowners and residents—is a question which Your Honour is the best judge to decide."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I think I express the sense of the Council and of Your Honour's Government when I say that, if there is a strong body of local feeling in favour of a further extension of time within which the Select Committee are to report upon the provisions of this Bill, it will receive favourable consideration at the hands of the Government. The time within which we are called upon to report is only a fortnight, and it does strike me that a fortnight is scarcely adequate for the consideration of a measure of this magnitude and importance. I fully recognise the urgency of the Bill. A law has to be passed so that it may be possible to take in hand the protective measures which may be necessary for the safety of Darjeeling before the next rains set in; but all the same, when we are about to legislate for the carrying out of measures which are likely to interfere with private and vested proprietary rights, we ought to give ample time to those who possess such rights, so that they make any representations which they may desire to lay before the Council. For my own part I should have preferred a separate enactment applicable to Darjeeling instead of the amendment of the general law applicable to all Municipalities in Bengal. I have great confidence in Your Honour's administration, but it is possible that some future Lieutenant-Governor may extend the provisions of this Bill to other Municipalities, and, in my humble judgment, it is necessary to guard against a contingency of that kind. But, if we have a law applicable only to Darjeeling, such a contingency can never occur.

"The Hon'ble Member in charge of the Bill has been pleased to say that no constitutional changes of any kind are contemplated in this Bill. I confess I have as yet only been able to glance at the provisions of this Bill; but, from the little attention I have been able to give to it, it seems to me that constitutional changes of the greatest moment are contained in this Bill. A cursory glance at the provisions of the Bill will show that there is a considerable enhancement of the authority of the Government, if not a considerable diminution of the powers of the Municipal Commissioners, and this itself is inconsistent with the principles of local self-government, and I should be disposed to record my protest against the Bill on this ground alone, were I not sensible of the fact that in politics there is no such thing as an abstract principle, and that every principle or system in the abstract must be judged by reference to the particular circumstances in which it is sought to enforce it. But there are considerations on the other side of the question which ought also to be borne in mind.

"This Bill carefully follows the lines of an admirable report drawn up by a carefully constituted Committee, but I find that there was no representative of the Indian community on that Committee. I venture to say in this connection that I regret that a similar procedure was not adopted with regard to the Calcutta Municipal Bill, and that a Committee was not appointed to make their recommendations before that Bill was introduced. The Committee which was appointed in connection with the Bill now before the Council have submitted their report; on that Committee there were representatives of the non-official community, and I find that the report of the Committee has been unanimously adopted by the Municipal Commissioners of Darjeeling, and, further, I learn, from enquiries I have made, that there was a meeting held by the local community of Darjeeling, and that they have also accepted the provisions of the Bill. Therefore, we have a considerable body of opinion in support of this measure, and I would not raise a discordant note, were it not that I find that an important question of principle is involved, and the acquiescence of the local community in what I deem to be the violation of this principle cannot

be regarded as the final settlement of the issue. If you look at section 351H,—and my hon'ble friend the Raja of Tahirpur has also referred to it,—you will find that the decision of the Engineer or of the Commissioner of the Division on any appeal preferred to him will be final. This is tantamount to the withdrawal of the power of the Civil Courts in this matter. I do not know that a local Legislative Council has the power to withdraw any authority, now vested in the Civil Court, although it may possibly do so with the consent of the Government of India. But, even if that consent were obtained, I submit that it would be highly inexpedient to take away such a power. A proceeding of this kind is calculated to accentuate the alarm which has been created by the passing of the Calcutta Municipal Bill, *viz.*, that the tendency of our legislation in recent years has been to exalt the executive at the expense of the judiciary. I hope a satisfactory answer will be given by the Hon'ble Member in charge of the Bill on this point. I hope also that the Hon'ble Member will be able to accede to the extension of time which my hon'ble friend the Raja of Tahirpur has suggested. I hope there will be a thorough discussion of this measure, because important interests are affected, and having regard to the magnitude of those interests we should avoid even the appearance of hasty legislation."

The Hon'ble MR. APCAR said:—"I only desire to comment on one point, with reference to this measure, and it is one that is not with reference to the details of the Bill. On the ground of expediency, it seems to me that it will be a desirable course to pursue if this measure is embodied in a separate Bill instead of being incorporated in the existing Act in the manner it is proposed to be done. As I understand it—I may be under a misapprehension, and I shall be glad if I am—it is intended to amend, or add, various sections in the existing Bengal Municipal Act. I would suggest, as a far more convenient course to pursue, to have a separate Act with reference to the Darjeeling Municipality, instead of working, into the existing Municipal Act, provisions which are peculiarly adapted for application to Darjeeling only. I have some experience in this method of legislation that has been adopted, and I think it only leads to confusion and inconvenience.

"With regard to the request which has been made for an extension of time, I feel myself a little embarrassed because I have not heard for what period it is sought that an extension should be granted; but it does seem to me that a fortnight is a very narrow term to give for the consideration of this very important measure that will affect rights of property, and the value of property, in the locality."

The Hon'ble MR. BAKER, in reply, said:—"Both the Hon'ble Mr. Apar and the Hon'ble Babu Surendranath Banerjee have suggested that it might be better to embody the amendments we propose to make in the Municipal law in a separate Act for Darjeeling, instead of incorporating them in the ordinary Municipal Act which applies to the whole of Bengal. I may say that this suggestion was considered by the Government when the question of legislation for Darjeeling first came before us, and the reason why we decided that it is unnecessary to do so is very simple, namely, that nine-tenths of the provisions of the existing Act will remain unaffected. I said nine-tenths, but I might say nineteen-twentieths, or even a still larger proportion. The whole of the provisions relating to the constitution of the municipality, the assessment and collection of taxes, the whole of the powers of the Municipal Commissioners in respect of such important matters as water-supply, lighting, conservancy, and everything connected with the public health, and practically everything except the provisions relating to the building regulations and to roads and drains, will remain unchanged. These are the only three matters in respect of which it is proposed to make any change at all. If we were to enact a special Act for Darjeeling, instead of having a Bill of 26 sections, we should have not less than 350 sections; and that alone is a sufficient reason, even if there was no other, why Your Honour's Government decided to adopt the form in which this Bill has been drafted.



"With regard to the extension of time within which the Select Committee should submit their report, for which both the Hon'ble the Raja of Tahirpur and the Hon'ble Mr. Apar have pressed, I would remind the Council that in Your Honour's opening remarks at the meeting of this Council on the 20th of December last you explained the reasons why this measure was urgent. The building season in Darjeeling is the cold weather and the spring. No building or road can be constructed during the rains or immediately after the rains. The rainfall in Darjeeling is very heavy every year, and exposes the station to very serious risk; and, if the damages caused by the cyclone in September last are not effectually repaired during the present working season, it may involve very serious risk to Darjeeling when the next rainy season sets in. Under the existing law, we cannot ensure that houses will be properly repaired or that revetment walls will be made where they are required in dangerous parts of the hillside. It is most necessary, therefore, that this Bill should come into force before the the present working season comes to an end. And, although the Bill does run over a considerable number of printed pages, there is very little which need take up much time, and scarcely any provisions which are likely to prove contentious.

"Then the Hon'ble Babu Surendranath Banerjee has thrown out a suggestion that, perhaps, this measure might hereafter be extended to other municipalities. This suggestion is alone sufficient to show that the Hon'ble Member was correct when he said that he had not read the Bill carefully, because it is physically impossible to apply any of these provisions to any town in the plains. There is only one municipality in Bengal, other than Darjeeling, to which any of these provisions can have application—I mean the small municipality of Kurseong. I think it would matter little to the Hon'ble Member if these provisions were extended to Kurseong; but in any case I may say that Your Honour's Government has no intention to extend them even to Kurseong.

"The Hon'ble the Raja of Tahirpur and the Hon'ble Babu Surendranath Banerjee made some reference to certain provisions of the Bill which oust the jurisdiction of the Civil Courts in certain matters, and they expressed some alarm at the incorporation of those provisions. Here again the Hon'ble Members will find, when they come to study the Bill, that very good reasons have been shown, and do exist, for the inclusion of those provisions. The matters in respect of which we propose to oust the jurisdiction of the Civil Courts are purely professional and engineering matters, and the Civil Courts can scarcely be expected to decide matters of that kind with the promptness and exactitude with which it would be done by the special tribunals constituted by this Bill. We propose that when any question arises of a professional nature, such as when the Municipal Commissioners refuse permission to build upon a site, or when they pass an order directing the construction of a revetment wall or any other protective work, there should be an appeal to a specially appointed Engineer of a higher rank than Executive Engineer. Hon'ble Members will admit that an Engineer is a much better authority than the Civil Court to decide a purely professional question of that kind. The Civil Court can only come to a decision on the evidence of experts, and we all know what the value of the evidence of experts is; whereas an Engineer having special knowledge of Darjeeling will be the best authority to decide whether the orders passed by the Municipal Commissioners are right or not. The other special tribunal provided by the Bill is the Commissioner of the Division. Although the Hon'ble Member referred to the Commissioner of the Division, he omitted to mention that the Commissioner is not to sit alone, but is to be assisted by two assessors who will be drawn from among the landowners and residents of Darjeeling. [The Hon'ble BABU SURENDRANATH BANERJEE.—"The Commissioner will not be bound by the opinion of the assessors."] I might mention that this provision was inserted on the express recommendation of land and house owners in Darjeeling. It was not a suggestion which emanated from the Government or from Mr. Joscelyne's Committee, but was suggested by the persons whose property and purses will be affected; therefore, we have good ground for holding that the people most concerned do approve of these specific provisions.

"There is one other minor point which was referred to in general terms by the Hon'ble Babu Surendranath Banerjee. He said that there are some changes in the Bill which are of a constitutional character; some diminution of the authority of the Commissioners and some enhancement of the powers of the Government. That objection, I may observe, was answered in advance by the Hon'ble the Raja of Tahirpur when he said that according to his information some of the residents of Darjeeling were alarmed at the enhancement of the authority of the Municipal Commissioners; for there cannot possibly be both an enhancement of the authority of the Commissioners and also a diminution of their authority. What the Hon'ble Member possibly referred to was the temporary provisions at the end of the Bill which empower the Local Government to exercise the powers of the Commissioners for a short period. That is not a principle of the Bill; they are purely temporary provisions, and they were inserted on the formal, unanimous and earnest application of the Municipal Commissioners themselves."

The motion was put and agreed to.

#### AMENDMENT ON BENGAL ACT I OF 1869 (*Cruelty to animals*).

The Hon'ble MR. SLACK introduced the Bill to amend Bengal Act I of 1869 (*an Act for the prevention of cruelty to animals*), and moved that it be read in Council.

He said—"The Act now in force merely provides for the punishment of persons actually in charge of the animal which is cruelly used. Such person is not generally, and need not be, the owner of the animal in question, and the result is that the penalty inflicted is not adequate. The Chief Presidency Magistrate has intimated to me that the Act in its present form is completely ineffective. He says that in his experience in many instances the owner of an animal which is suffering compels the driver to take it out again as soon as possible after a fine is inflicted. Moreover, it is quite impossible to realize from the driver any fine which may be imposed. With a view to remedy this state of things and to provide for the care of the suffering animals, it is proposed to extend certain provisions of Act XI of 1890 of the Imperial Council for the prevention of cruelty to animals, by which the authority which has power to punish an offender may at the same time order the animal with regard to which the offence has been committed to be taken to a veterinary infirmary and to be kept there at the expense of the owner of the animal until it is well. It might be asked why the provisions of the Imperial Act should not be included in this Bill. The answer is very simple; because if that Act were extended here the police would not have the power which they now possess of arresting an offender without process, and I need hardly add that the present Act is in that respect more effective. I shall at the next meeting ask that the Bill be referred to a Select Committee with instructions to report within a week."

The motion was put and agreed to, and the Bill was read accordingly.

The Council was then adjourned to Saturday, the 20th January, 1900.

CALCUTTA;  
The 12th February, 1900.

F. G. WIGLEY,  
Assistant Secretary to the Govt. of Bengal,  
Legislative Department.



*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,  
assembled under the provisions of the Indian Councils Acts, 1901 and 1892.*

The Council met in the Council Chamber on Saturday, the 20th January,  
1900.

**Present:**

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal,  
*presiding.*

The Hon'ble MR. J. T. WOODROFFE, Officiating Advocate-General, Bengal.

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. J. PRATT.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. F. A. SLACK.

The Hon'ble MR. E. N. BAKER.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble RAI DURGA GATI BANERJEE, BAHADUR, C.I.E.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY, BAHADUR, OF TAHIRPUR.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIRPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble MR. J. G. APCAR.

The Hon'ble DR. ASHUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRA NATH BANERJEE.

**NEW MEMBER.**

The Hon'ble MR. WOODROFFE took his seat in Council.

## QUESTIONS AND ANSWERS.

## OUTRAGES AND ASSAULTS ON WOMEN IN THE MYMENSINGH DISTRICT.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, of Nashipur, asked—

Will the Government be pleased to lay on the table a statement showing the number of cases of outrages and assaults on women in the district of Mymensingh, and the number of offenders detected, sent up for trial and convicted, during the last three months, and to state if the offence decreased during the said period after the appointment of special Police Inspectors.

The Hon'ble MR. BOLTON replied:—

“A statement of the number of cases instituted during September, October and November last is laid on the table. It shows 31 cases of rape, 64 cases of kidnapping in order to compel marriage or illicit intercourse, 14 cases of kidnapping from lawful guardianship, 33 cases of indecent assault, and 22 cases of house-trespass; the population of the district, which covers an area of 6,300 square miles, being  $3\frac{1}{2}$  millions, of which  $2\frac{1}{2}$  millions are Muhammadans. The number of cases shows a large increase, but the local officers point out that this is the primary result of the appointment of Special Inspectors for investigating this class of crime, the increase being due to some extent to true cases being brought to light, but to a much greater extent to the exaggeration of cases of adultery and seduction, which are of frequent occurrence in the district, so as to bring them under sections cognizable by the police. It would appear that advantage is being taken of the presence of the special officers to bring before the Courts many cases arising out of marriage disputes, and the local officers have to watch and enquire into the charges very carefully. The fact that of 184 persons sent up for trial during the three months only 42 had been convicted, 63 having been discharged or acquitted and 79 being still under trial, points to the necessity for this watchfulness. No outrage of an exceptionally serious nature occurred during the period. It is reported that the Special Inspectors have, on the whole, met with fair success in bringing the offenders to justice in the real cases of outrage, and in collecting evidence for proceedings against dangerous characters under section 110 of the Code of Criminal Procedure.”

*Statement of outrages and assaults on women instituted, and of offenders sent up for trial, in Mymensingh during September, October and November, 1899.*

Section of the Indian Penal Code.	Cases.	Persons sent up for trial.	Convicted.	Discharged or acquitted.	PENDING TRIAL—	
					Before Sessions Court.	Before Magistrates.
1	2	3	4	5	6	7
376 (Rape) ... ..	31	41	5	8	19	9
366 (Kidnapping to compel marriage or illicit intercourse).	64	60	8	19	30	3
363 (Kidnapping from lawful guardianship).	14	13	4	6	.....	3
354 (Indecent assault) ... ..	33	51	11	25	.....	15
456 and 457 (House-trespass) ...	22	19	14	5	.....	.....
Total ...	164	184	42	63	49	30

## SEPARATION OF JUDICIAL FROM EXECUTIVE FUNCTIONS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

I.—I have the honour to ask if this Government has received any communication from the Government of India in connection with a memorial submitted to the Secretary of State, on the question of the separation of judicial from



executive functions, by Lord Hobhouse, Sir Richard Garth, Sir William Markby, Sir William Wedderburn, Sir John Phear and other distinguished men. If so, will the Government be pleased to lay it on the table and invite thereon the opinions of the various public associations?

The Hon'ble Mr. BOLTON replied:—

“This Government has received no communication from the Government of India relating to the memorial mentioned by the Hon'ble Member.”

#### MR. PENNELL'S RECENT JUDGMENT.

The Hon'ble BABU SURENDRANATH BANERJEE said—

(a) With reference to the judgment of Mr. Pennell, late Sessions Judge of Chapra, setting aside the sentence passed on one Narsing Sinha, who was convicted by the Deputy Magistrate of Chapra and sentenced to two months' rigorous imprisonment, I have the honour to ask whether the attention of the Government has been called to the following findings in the judgment of the Sessions Judge:—

- (1) That Mr. Corbett, Assistant Superintendent of Police, and Mr. Simkins, Engineer, committed a severe assault upon Narsing Sinha, because he snapped his fingers at Mr. Corbett's face and would not submit to forced labour.
- (2) That subsequently a case was got up against Narsing Sinha by the Assistant and the District Superintendent of Police in consultation with the District Magistrate.
- (3) That the Deputy Magistrate who tried the case was in frequent communication with the District Magistrate under whose orders the prosecution was initiated, and he stated in his examination before the Sessions Judge that he took the record to the District Magistrate to satisfy him that section 353 was not applicable—to explain to him—and that he discussed cases with District Magistrates to avoid after-troubles.

(b) Whether Government approves of such conferences between the prosecuting officer and the trying Magistrate? If not, whether the Government will be pleased to take such action as to the Government may seem fit to prevent such interchange of views between prosecutor and judge which must prejudice the righteous administration of justice?

(c) Whether a copy of the judgment of Mr. Pennell in this case has been submitted to the Government, and what action, if any, the Government has taken with regard to the officers, *viz.*, Messrs. Twidell, Bradley, Corbett and Simkins and Maulvi Zakir Hossein, whose conduct has been severely censured by the Sessions Judge in his judgment?

(d) Whether there is any foundation for the statement which has been made that Mr. Pennell has been transferred owing to his judgment in the Chapra case. If not, will the Government be pleased to state the circumstances of the transfer?

The Hon'ble Mr. BOLTON replied:—

“A copy of Mr. Pennell's judgment was submitted by him to the Government. The officers of the Saran District concerned were gravely to be blamed, and the promotion of the two who were most responsible has been suspended for a year and two others have been censured.

“Subordinate Magistrates may, without sacrifice of their judicial independence, seek the advice of the District Magistrate, or of brother officers, and similar consultations occur in Courts of Justice generally. In difficult cases especially, they afford useful assistance to judicial officers. In the present

instance, however, the District Magistrate had personally interested himself in the prosecution and ordered its institution, and no discussion should have taken place between him and the Deputy Magistrate during the trial.

“Mr. Pennell was transferred in the course of official changes, and the order appointing him to Noakhali was passed before the Government saw his judgment.”

### THE DARJEELING MUNICIPAL BILL.

The Hon'ble MR. BAKER presented the Report of the Select Committee on the Bill to amend the Bengal Municipal Act, 1884, in its application to Darjeeling.

#### AMENDMENT OF BENGAL ACT I OF 1869 (*Cruelty to animals*).

The Hon'ble MR. SLACK moved that the Bill to amend Bengal Act I of 1869 (*an Act for the prevention of cruelty to animals*) be referred to a Select Committee consisting of the Hon'ble Mr. Pratt, the Hon'ble Babu Surendranath Banerjee and the mover, with instructions to report at the next meeting of the Council.

The Hon'ble MR. BUCKLAND said:—“I should like to make a few observations on this Bill at this stage. It really deals with a matter to which I have given much consideration for many years past—I mean the establishment of a Veterinary Institution at Belgatchia and the introduction of the teaching of veterinary science. I regard this Bill as not only complementary to the Act for the Prevention of Cruelty to Animals, but also as filling a great want which is much felt at the Veterinary College at Belgatchia. I had intended to offer a suggestion for enlarging the scope of this measure, but on arriving in this room I enquired of the Secretary to Government, the Hon'ble Member in charge of the Bill, and I understand it is unnecessary to press the suggestion I had intended to make. The work that is being done at Belgatchia must, I think, commend itself to all who are interested in the agriculture and the future of Bengal. You are aware, Sir, that every year young men are being turned out from that College fully equipped with all the knowledge required to enable them to exercise their profession wherever they may be sent in Bengal. I can conceive nothing more advantageous to the millions of cultivators in Bengal than that there should be such a body of men available to be sent to any spot on the occasion of an outbreak of rinderpest or cattle-plague or any other disease that affects cattle. But it is very important that this College should have material on which to work. I have been told on enquiry that it is very desirable that more cases should be sent to the College on which the students can practise, and I am informed that the prosecutions instituted by the Society for the Prevention of Cruelty to Animals amount to about seven thousand a year; so that, if only a thousand of the animals ill-treated could be made available for practice and for the clinical instruction of students, it would be of great advantage to the College. All that is possible is, I believe, being done to have the education of these students brought up to date in accordance with the latest knowledge of veterinary science, but it is impossible that much progress can be made until they have material to work upon. I therefore think this Bill will go a long way to meet a great want. It has also been commended to me on other grounds. Not only will it facilitate the supply of subjects for the instruction of the students, but it will also benefit the owners, because their animals will be cured and restored to them for use with the least possible delay, and it will obviously be for the benefit of the animals that they should be cured and sent away. It has also been mentioned to me that, though Belgatchia is some little distance away from Calcutta, it will not be necessary for sick animals to walk there, because the College has ambulances which can be sent to bring them. It has further been mentioned that the administration of justice will benefit, because it will be easier to realize the fines imposed on owners for having used animals in a cruel way. I was not aware before that there was any difficulty in realizing these fines, but it has been mentioned to me that this is the case. On the whole I cordially support this measure, and I hope an early opportunity



will be taken by the municipalities which are authorised by law to establish veterinary hospitals and employ veterinary assistants, to apply for the extension of this measure, when it is passed into law, to their municipalities, so that there may be numbers of veterinary infirmaries throughout the country. I speak from considerable experience in this matter, and hope that the Council will pass this Bill without further delay."

The motion was put and agreed to.

#### ADJOURNMENT OF COUNCIL.

The Hon'ble THE PRESIDENT said:—"The Government are obliged to the Select Committee on the Darjeeling Bill for the prompt and careful attention they have given to its provisions. Their conclusions have been published for the information of the public, and I hope it will be possible to take the Bill into consideration in its final stage at the next meeting of the Council, which will be on Saturday, the 17th February next, and to that day the Council is adjourned."

CALCUTTA;

The 12th February, 1900.

F. G. WIGLEY,

Assistant Secretary to the Govt. of Bengal,  
Legislative Department.

REGISTERED No. 29.]



SPECIAL SUPPLEMENT TO  
**The Calcutta Gazette.**

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WEDNESDAY, MARCH 21, 1900.

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*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,  
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Saturday, the 17th February,  
1900.

**Present:**

- The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal,  
*presiding.*  
The Hon'ble MR. J. T. WOODROFFE, Officiating Advocate-General, Bengal.  
The Hon'ble MR. W. B. OLDHAM, C.I.E.  
The Hon'ble MR. J. PRATT.  
The Hon'ble MR. C. E. BUCKLAND, C.I.E.  
The Hon'ble MR. C. W. BOLTON, C.S.I.  
The Hon'ble MR. R. B. BUCKLEY.  
The Hon'ble MR. F. A. SLACK.  
The Hon'ble MR. E. N. BAKER.  
The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.  
The Hon'ble BABU JATRA MOHAN SEN.  
The Hon'ble MR. T. W. SPINK.  
The Hon'ble RAJA SHASHI SHAKHARESWAR ROY, BAHADUR, OF TAHIRPUR.  
The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NAHSIPUR.  
The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.  
The Hon'ble MR. J. G. APCAR.  
The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.  
The Hon'ble BABU BOIKANTA NATH SEN.  
The Hon'ble BABU SURENDRANATH BANERJEE.



## QUESTIONS AND ANSWERS.

## RE-ORGANIZATION OF THE EXECUTIVE BRANCH OF THE PROVINCIAL SERVICE.

The Hon'ble BABU SURENDRANATH BANERJEE said :—

“With reference to the recent scheme for the re-organization of the Executive Branch of the Provincial Civil Service, I have the honour to ask—

- (1) Whether it is the case that by increasing the number of appointments in the lower grades, out of all proportion to the higher, the effect will be that the members of the service will not as a rule be in a position to rise to the Rs. 500 grade until after 27 years' service, that the members of the service must as a rule spend 4 years in the Rs. 200 grade, 7 years in the Rs. 250 grade, 9 years in the Rs. 300 grade and 7 years in the Rs. 400 grade, thus coming up to the Rs. 500 grade after 27 years' service, the Rs. 700 grade after 32 years and the Rs. 800 grade after 35 years' service or not at all, being compelled to retire owing to the age limit?
- (2) Whether it is the case that formerly, when Deputy Magistrates were appointed by nomination and without any test of merit of any kind, they were appointed on an initial salary of Rs. 200 a month rising to Rs. 300 a month on passing the departmental examinations? Whether now, when Deputy Magistrates are appointed as probationers after a difficult examination, they are appointed on a bare subsistence allowance of only Rs. 50 a month, rising to Rs. 200 a month, when they have passed both the departmental examinations and have been appointed to the officiating grade? Is it the case that Sir Evelyn Baring (now Lord Cromer), when he was Finance Minister in India, stated in his Budget speech that the salaries paid to the members of the Executive Service were inadequate to their responsibilities, and he was of opinion that the salary of the lowest grade should be Rs. 250 a month? Is it the case that certain proposals were made by the Bengal Government in their letter No. 1546, dated the 30th March, 1882, with a view to improve the pay and status of the members of the Executive Service, and a Rs. 250 grade was created in accordance with Sir Evelyn Baring's views, and was the salary of a Deputy Collector on his appointment fixed under this scheme at Rs. 200 a month, and that on his passing the departmental examination by the lower standard he was to be confirmed in the lowest grade on Rs. 250 a month as it came to his turn? Will the Government be pleased to consider the propriety of fixing the initial salary of the Deputy Magistrate on his passing the competitive examination or on his being nominated at Rs. 200 a month, the period of the officiating appointment counting towards pension?
- (3) Whether it is the case that the Government has recently created a thousand-rupee grade in connection with the Opium Department? If so, having regard to the character of the work done by the members of the Provincial Executive Service, which is at least as important as that of the Opium Department, and to the fact that there is a thousand-rupee grade in the Judicial Branch of the Provincial Service, will the Government be pleased to consider the propriety of creating a higher grade of one thousand rupees for the Provincial Executive Service?
- (4) Whether it is the case that Assistant Opium Agents are allowed travelling allowance of 8 annas per mile, or Rs. 4 a day, which rates are not granted to Deputy Collectors until they reach the Rs. 600 grade, and that Sub-Deputy Agents on Rs. 500 a month draw Rs. 5 per day as travelling allowance, while a Deputy Collector on Rs. 800 a month draws only Rs. 4 a day? Will the Government be pleased to consider the propriety of assimilating the travelling allowance granted to members of the Provincial Executive Service to the travelling allowance granted to the

members of the Opium Department, the reasons for this difference not being apparent?

- (5) Whether any member of the Executive Branch of the Provincial Service holds any appointment hitherto reserved for the Covenanted Service in accordance with the recommendations of the Public Service Commission and the notification issued in the *Calcutta Gazette* of the 5th April, 1893? If not, seeing that nearly twelve years have elapsed since the recommendation of the Commission and more than six years have elapsed since the notification above referred to, will the Government be pleased to state when any part of the above recommendations of the Public Service Commission will be enforced in connection with the Executive Branch of the Public Service Commission?"

The Hon'ble MR. BOLTON replied:—

"(1) & (2) The Government is not in a position to state what will be the periods of service of Deputy Magistrates and Deputy Collectors in the several grades as now reorganized, but the tendency of the increase in the number of appointments in the lower grades will be to prolong service in those grades. Promotion to the first four grades is regulated by selection for merit and not by mere seniority.

"The recent reorganization has, however, materially benefited the Executive Branch of the Provincial Service. The sanctioned cadre previously consisted of 266 officers, but in order to meet the requirements of the Administration, especially in connection with the large settlement-operations of recent years, a very large number of additional officers were appointed as Officiating Deputy Magistrates and Deputy Collectors on Rs. 200 per mensem. The main object of the reorganization was to bring these officers on the permanent cadre, and accordingly an eighth grade has been added to the cadre on the pay of Rs. 200, to which 33 of the officers have been appointed, while others have been provided for by an increase of appointments in the previously existing grades up to, and inclusive of, the fourth. The cadre has thus been increased permanently from 266 to 364 officers, and, while the great majority of the Officiating Deputy Magistrates and Deputy Collectors have been confirmed in their appointments, many other officers who were already substantive have received promotion to higher grades. Another substantial benefit has been conferred on the Deputy Magistrates and Deputy Collectors by the introduction of new rules which allow the counting of officiating and substantive *pro tem.* service towards leave and pension.

"Under the rules for the competitive examination for admission into the Provincial Service, the selected candidates have, in the first instance, to pass through a probationary period of about six months, during which they exercise no criminal or revenue powers and are allowed a subsistence allowance of Rs. 50 per mensem. They draw Rs. 200 per mensem from the date of their being appointed Deputy Magistrates and Deputy Collectors and receiving powers as such. The Government sees no necessity for modifying the rule relating to the allowance granted during the period of probation.

"The Hon'ble Member's reference to the Finance Member's Budget Statement and the correspondence of 1882 is correct. A grade on Rs. 250 per mensem was created in that year. Officiating officers were to receive Rs. 200 per mensem until they could be confirmed in that grade. As already explained, the number of such officers lately was very large. Many of them have now been confirmed in the grade of Rs. 250 and others have been placed in the new substantive grade of Rs. 200. Some still remain to be absorbed into that grade, and will be confirmed in it as vacancies occur.

"The Hon'ble Member will see that the recent additions to the substantive cadre of the Service have not impaired the prospects of the junior officers in the smallest degree, while these officers have secured immediate and material benefits in the matter of salary, pensionable service and leave. This is as much as the Government is able at present to do for the Service.

"(3) Two appointments on Rs. 1,000 a month have recently been sanctioned for the Opium Department, and there are appointments on that pay in the



Judicial Branch of the Provincial Service. The pay of the highest grade of Deputy Magistrates is Rs. 800, but there are other appointments on higher pay open to this class of officers. The Government does not propose to move for the creation of appointments on Rs. 1,000 in the Executive Branch of the Provincial Service.

“(4) The travelling allowance of Assistant Opium Agents was raised in 1897 from Rs. 3 to Rs. 4 a day and from 4 annas to 8 annas a mile, after full enquiry. These officers are required to spend several months of the year continuously in camp, and the previous rates of travelling allowance granted to them were found inadequate. Sub-Deputy Opium Agents, who are subject to the same rule as to camping, receive Rs. 5 a day and 8 annas a mile. Deputy Collectors drawing more than Rs. 500 are allowed Rs. 4 a day and 8 annas a mile, but all Deputy Collectors in charge of subdivisions, who must spend several months during the year on tour, are granted travelling allowance at the rate of Rs. 4 a day and 8 annas a mile, whatever their pay. The rates of travelling allowance for Deputy Collectors apply in all Provinces, and the Lieutenant-Governor considers no change in them necessary. In the districts of the Chittagong and Dacca Divisions and in Pabna, Jessore, Khulna and the 24-Parganas the rates are increased by 50 per cent. for all officers on account of the boat travelling.

“(5) I stated, in reply to a similar question asked by the Hon'ble Member on the 12th November, 1898, that the notification of this Government, published in the *Calcutta Gazette* of the 5th April, 1893, declaring certain “listed” appointments (of which four are Collectorships and six District Judgeships) open to members of the Provincial Service, including Statutory Civilians, was subject to the restrictions imposed by the Resolution of the Government of India, No. 9 Public—1342, dated the 21st April, 1892. That Resolution laid down that the appointment of members of the Provincial Service, and of Statutory Civilians, to these posts should be subject to the prior right to promotion of members of the Indian Civil Service appointed in the several years in which recruitment was reduced by one-sixth in order to allow of vacancies being filled up by members of the Provincial Service. When my reply was given six listed posts of District Judgeships and Collectorships were held by Statutory Civilians. There are now eight appointments so held, the Statutory Civilians being Kumar Gopendra Krishna Deb, and Messrs. A. C. Sen, S. N. Huda, N. K. Bose, S. K. Agasti, B. C. Mitra, K. N. Roy and A. Ahmad. No substantive vacancy to be filled by the appointment of a member of the Provincial Service has yet become available. As the Hon'ble Member is doubtless aware, three members of the Judicial Branch of that Service, who have been appointed Assistant Judges, have from time to time acted as District or Additional Judges.”

#### SALARIES OF CLERKS IN THE OFFICES OF SUBDIVISIONAL MAGISTRATES AND MUNSIFS.

The Hon'ble BABU SURENDRANATH BANERJEE asked—

“(a) Is the Government aware that the clerks in the offices of Subdivisional Magistrates and Munsifs in subdivisions are as a class much harder worked than their brother officers at the district head-quarters?

“(b) Will the Government be pleased to enquire if it is not the rule for these subdivisional clerks to attend office daily in the morning for two or three hours, and again from 11 A.M. till late in the evening, while their brother officers at the district head-quarters have to attend office only from 11 A.M. till evening?

“(c) If there is actually such a considerable difference in the quantity of work for clerks in district and subdivisional offices, will the Government be pleased to devise some means to redress the balance, either by way of increasing the staff in subdivisional offices, or by granting them some extra allowance, regard being had to their small pay and the comparative disadvantages which attend life in a subdivisional station?”

The Hon'ble MR. SLACK replied:—

“The Government is not aware that the clerks of the subdivisional offices and Munsifs' Courts in subdivisions have more onerous and longer duties than the officers at the district head-quarters; and promotion to vacancies at head-quarters is open to these clerks. It is not, therefore, considered necessary to make the enquiry suggested by the Hon'ble Member, or to revise the staff and pay in subdivisions.”

#### PAYMENT OF LAND-REVENUE THROUGH THE POST-OFFICE.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, asked—

“Whether the attention of the Government has been called to the case of *Baikuntha Nath Dutt v. Ganga Prosad Patnaik*, reported in 4 Calcutta Weekly Notes, page 103, in which it was held by the Hon'ble High Court that where the revenue of an estate was sent through the post-office by a money-order in sufficient time, but did not, owing to the negligence of the post-office, reach the Collector until too late, the estate was rightly sold for arrears of revenue, and that payment to the post-office was not equivalent to payment to the Collector, whose agent the post-office could not be considered to be, and whether, on account of the hardship likely to be caused in consequence of this decision, the Government will be pleased to declare that payment of Government revenue to the post-office is equivalent to payment to the Collector, or to issue directions to the Collectors of land-revenue that in such cases estates may be exempted from sale under the provisions of section 18 of Act XI of 1859?”

The Hon'ble MR. SLACK replied:—

“Government has seen the case referred to by the Hon'ble Member. From inquiries made it appears that the plaintiff did not appeal to the Commissioner, as it was open to him to do, till after the sixty days of limitation had expired. Had he availed himself of the remedy provided by law, the Lieutenant-Governor has no reason to doubt that the hardship would have been removed.

“Government is not prepared to issue orders of the nature suggested by the Hon'ble Member. The provisions of the Sale Law meet cases of this kind, as of other forms of hardship, where the party concerned chooses to use them.”

#### INCOME FROM ROAD-CESS, AND EXPENDITURE ON PUBLIC WORKS BY DISTRICT BOARDS IN BENGAL.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, asked—

“Will the Government be pleased to lay on the table a statement showing the income derived from road-cess and the details of expenditure incurred on public works by the several District Boards of Bengal for the last five years?”

The Hon'ble MR. BAKER replied:—

“The statement is laid on the table.”

*Statement showing the income derived from road-cess and expenditure incurred on Public Works by the several District Boards in Bengal during the five years ending in 1898-99.*

YEAR.	Receipts from the road-cess, less the cost of collection and of periodical revaluation.	EXPENDITURE UNDER HEAD “45—CIVIL WORKS” IN CHARGE OF PUBLIC WORKS OFFICERS.										
		Original Works.			Repairs.			Establishment contingencies appropriate to public works.	Tools and plant.	Water-supply and water-works.	Drainage works.	Total.
		Civil buildings.	Communications.	Miscellaneous Public Improvements.	Civil buildings.	Communications.	Miscellaneous Public Improvements.					
1	2	3	4	5	6	7	8	9	10	11	12	13
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1894-95	85,60,402	1,92,944	10,08,267	22,532	1,46,149	20,42,791	20,815	6,27,780	25,144	40,725	7,30	41,72,578
1895-96	36,27,156	2,70,671	11,15,414	23,183	1,81,860	21,15,027	14,129	6,26,847	21,888	51,975	5,198	44,71,881
1896-97	37,53,615	3,25,891	8,50,615	39,144	1,71,501	17,63,309	16,969	6,66,973	20,550	98,913	12,744	40,23,187
1897-98	39,15,230	2,80,531	5,82,855	33,908	1,61,185	18,33,123	13,639	6,72,977	24,519	1,39,770	5,370	37,86,712
1898-99	39,64,568	1,67,932	7,47,422	29,937	80,083	21,63,404	17,532	6,38,063	30,546	1,61,830	2,657	41,16,838



## CONDITION OF THE NADIA RIVERS.

The Hon'ble BABU BOIKANTA NATH SEN asked—

“Has the miserable condition of the Bhagirathi entrance at Narayanpur within the subdivision of Jangipur, in the district of Murshidabad, been brought to the notice of Government? If so, does the Government recognise the necessity of improving the entrance for keeping the river navigable throughout the year? And does it intend to take any steps, if so, what, for making the requisite improvement? Can a dredger be worked successfully this year? Will the Government be pleased to cause a statement to be laid on the table showing the revenue from the tolls at Jangipur and Sarupganj within the last ten years, and the amount spent for the improvement of the entrance within the said period?”

The Hon'ble MR. BUCKLEY replied:—

“A statement is laid on the table. The expenditure in column 12 shows the direct charges of all kinds incurred on the three rivers—Bhagirathi, Jalangi and Mathabhanga. In the last four years the expenditure has exceeded the receipts on those three rivers.

“The deterioration of the Nadia rivers—the Bhagirathi, Jalangi and Mathabhanga—has been occupying the attention of the Irrigation Department for years, and for full information on this subject reference should be made to the annual Revenue Reports beginning with that for 1894-95. From these reports it will be seen that Government is fully alive to the necessity of keeping these rivers navigable, if possible, throughout the year.

“It is, however, the fact that natural changes in the delta of the Ganges may render the task an impossible one.

“During the past season training works at the head of the Bhagirathi were, as an experiment, commenced earlier than usual; and, although the entrance from the Ganges was favourable, the river in the upper part was closed to navigation early in December. This was due to the existence of a shoal a little way below the entrance and extending almost continuously for a distance of four miles. At the present moment there is no dredger in India which could maintain an open channel through this sandy shoal. If the new dredger which is being supplied to the Port Commissioners comes up to expectations, it is possible that with a similar dredger a channel might, at a large cost, be kept open in the Bhagirathi all the year round. On sanitary grounds as well as in the interests of the port it is desirable to have as large a discharge as possible in these rivers in the dry months.”

*Statement showing the toll collections on the three Nadia Rivers for the last ten years from 1889-90 to 1898-99, the charges for training works on the three rivers separately, and the total direct charges under all heads for maintaining and working the rivers.*

YEARS.	TOLL COLLECTIONS—						CHARGES ON ACCOUNT OF TRAINING WORKS ONLY—					Total direct charges of all kinds on the three rivers.
	Bhagirathi.			Bhairab-Jalangi.	Mathabhanga.	Total toll collections in the three rivers.*	In Bhagirathi.	In Bhairab-Jalangi.	In Mathabhanga.	Total.		
	Jangipur.	Sarupganj and Nadia.	Total.	Sarupganj.	Harekhal.							
1	2	3	4	5	6	7	8	9	10	11	12	
1889-90	Rs. 34,592	Rs. 29,341	Rs. 63,933	Rs. 43,747	Rs. 28,227	Rs. 1,20,902	Rs. 32,944	Rs. 1,003	Rs. 2,327	Rs. 36,274	Rs. 1,03,499	
1890-91	30,145	31,439	61,584	74,932	61,434	2,00,000	32,869	4,808	1,641	39,318	1,03,085	
1891-92	28,983	36,735	65,718	87,777	25,805	1,99,315	42,159	4,353	1,415	47,927	1,03,075	
1892-93	31,117	39,687	70,804	79,636	24,961	1,60,800	46,518	6,401	2,802	55,721	1,03,433	
1893-94	30,805	37,444	68,249	74,081	23,735	1,71,146	52,426	10,745	2,005	65,176	1,03,286	
1894-95	37,594	34,891	72,485	40,598	25,422	1,41,419	61,642	11,003	2,717	75,362	1,03,407	
1895-96	32,019	37,329	69,348	39,344	21,841	1,19,574	45,694	13,000	444	59,138	1,03,299	
1896-97	30,828	30,142	60,970	29,876	20,546	93,502	36,002	11,059	1,729	48,790	1,03,000	
1897-98	18,325	30,903	49,228	27,014	22,113	69,355	20,234	11,064	1,776	33,074	1,03,000	
1898-99	20,163	31,436	51,599	32,895	23,735	80,279	32,400	12,044	2,119	46,563	1,03,000	
Total	2,01,002	2,34,613	4,35,615	5,44,435	2,09,503	14,18,278	3,82,540	80,796	17,721	4,81,057	11,83,000	

\* There are in addition to toll collections some small miscellaneous receipts.

## PLAGUE IN THE BARH SUBDIVISION.

The Hon'ble BABU BOIKANTA NATH SEN asked—

“Has the attention of the Government been drawn to an article in the *Amrita Bazar Patrika* of the 20th January last, in which it was stated that (a) at the Barh Subdivision, in the Patna Division, as soon as a case of plague was detected in a family, all the members were at once isolated and were wholly precluded from making proper arrangements in connection with their trade or business during the period of isolation; that (b), in the case of a death, though the corpse was permitted to be taken out for cremation or burial, the mourners, Hindus and Muhammadans, when once returned home, were not allowed to go out to perform the necessary religious ceremonies in connection with the death of their relative; and that (c) plague patients were practically dying without treatment, as members of an affected family could not go out to procure medical help? Will the Government be pleased to state whether the steps taken by the plague authorities at Barh were in accordance with the Government plague regulations, and will the Government be further pleased to state whether it has taken any steps to ameliorate the sufferings of the Barh people whose business and life appear to be in danger?”

The Hon'ble MR. BAKER replied:—

“The attention of Government has been drawn to the article in question.

“The steps taken by the authorities in the Barh Subdivision were in accordance with rule 8A of Plague Regulation No. 13, which was inserted by a Notification, dated the 2nd January, 1900. The effect of this rule was to allow an alternative to, and relaxation of, the former orders, under which it was obligatory on the Subdivisional Magistrate or Health Officer, on the occurrence of a case of plague, to remove the patient to a hospital for treatment, and to cause the other inmates of the house to be removed to a segregation camp and to be detained there under observation for ten days. The object of the rule and the reasons for it are explained in a Circular letter to all Commissioners, No. 3  $\frac{M}{P}$ , dated the 10th ultimo, a copy of which will be laid on the table.

“The correspondent of the *Amrita Bazar Patrika* dwells on the inconvenience which is caused to the inmates of a house by its being cordoned. No doubt that measure does cause considerable inconvenience to the inmates. But it is necessary also to consider the welfare of the other inhabitants of the village, and of those of other villages in the neighbourhood. It must be remembered that no one need be isolated against his will. The measure which Government is anxious to see adopted is the temporary evacuation of their houses by infected families. This plan is customary and sanctioned by tradition in every part of India on an outbreak of epidemic disease. In every other district of Bengal which has been unfortunate enough to be visited by plague, the people have promptly and cheerfully followed this plan, and co-operated with the district authorities in carrying it out. This was done in Dacca, in Faridpur, in Backergunge and in Darbhanga. The consequence is that in every one of these districts the plague has been stamped out with a loss of life which is trifling compared with that which has unfortunately occurred in Barh, owing to the unhappy refusal of the people to follow their own customary methods.

“The Government has lost no opportunity of impressing on the people and on its own officers the importance and efficacy of evacuating infected houses. But if any one objects so strongly to this salutary course that he prefers to be isolated in his own house, the local authorities have discretion to allow it. It is obvious, however, that the isolation must be complete. No person who has been in contact with a case of plague can be permitted to endanger his neighbours by going about his business as if he were free from infection. Any inconvenience he may suffer is the direct consequence of his own act in refusing to vacate his house.

“There is reason to hope that a more reasonable view is gaining ground among the people of Barh, and that before long the local officers may succeed



in persuading them of the great advantage of evacuation, the one simple system which has effectually checked the spread of plague in every other part of the rural areas of the Province.

"A copy of the Lieutenant-Governor's reply to the District Board and Municipal Committee of Patna on the 6th instant is laid on the table for the information of Hon'ble Members."

The Hon'ble Mr. BAKER, at the request of the Hon'ble the President, read the reply just referred to:—

"Then, addressing all four Associations, the Lieutenant-Governor spoke of the plague which had broken out in their neighbourhood. He acknowledged with the warmest pleasure the hearty co-operation and support the District authorities had received from the Municipal Commissioners of the city. Two or three cases had occurred, but instant information was given, instant measures had been taken, and in not one case had the infection spread. He was grieved to say that in the subdivision of Barh the action of the local zamindars and the village officials had been exactly the opposite. For three weeks the presence of plague had been deliberately and carefully concealed, with the result that the infection did spread and two thousand deaths had taken place. He reminded them that the plague regulations of the Government were simple and easy, that neither in town nor in country was there any separation of members of a family from each other, that in cities home-segregation was adopted, because, in truth, no other system was possible, that in country villages the plan was to be followed which was customary and traditional through every part of India on an outbreak of epidemic disease. That plan was the temporary evacuation of the house. In every other district of Bengal which had been unfortunate enough to be visited by plague the people had promptly and cheerfully followed this plan. That was done in Dacca, in Faridpur, in Backergunge, in Darbhanga and in Saran. The consequence was that in every one of these districts the plague had been stamped out, and in not one of them had the total loss from the disease exceeded a couple of hundred lives. In their own district they saw for themselves the consequences of refusing to follow their own customary method. In a few weeks they had lost a couple of thousand lives. In the stricken area he had visited yesterday he had seen the empty house of a village-chaukidar. When one of the family took ill, he refused to leave the house for a grove of trees ten yards off. In three days the chaukidar, his wife, and all his four children were dead, and not one soul of that family was left alive.

"The Lieutenant-Governor was glad to say that a more reasonable spirit was now coming over the people of the stricken area. They had purchased knowledge and experience at a terrible cost and they were now coming forward with ready information. The District officers had been sorely handicapped by the start the disease had been enabled to make, but he believed that they had now got it in hand, and if the zamindars of the district gave that sincere and hearty co-operation by information and influence which he knew every one of his hearers would, they would yet as successfully drive the enemy from their doors as in Saran and Darbhanga."

The Hon'ble THE PRESIDENT then said:—"Gentlemen of the Council, I have asked the Hon'ble Mr. Baker to read this extract from my speech at Patna, because I want the very earnest and active co-operation of all my colleagues in this Council who have any influence in Bengal and have any connection with rural districts. It has been explained to you in this extract that the Government in rural areas makes no departure from the principle laid down by it in towns, namely, that no husband shall be separated from his wife and no wife from her husband. All that we ask in rural areas is that families should adopt the custom familiar in the whole of India of leaving their homes temporarily till the plague has passed out. That is a simple and safe remedy for any family to take, and it has proved to be the only remedy that is known to us to get rid of this terrible disease. What infatuation possessed some of the villagers in the Barh subdivision I do not know. I have no doubt that some one poisoned their minds, as some one poisoned the minds of the people in Calcutta in regard to inoculation. It is a bitter lesson that those who have been put against the simple methods suggested to them by the District officers have been taught. As I said in my speech at Patna, an extract from which has been read to-day, plague in rural areas can be easily stopped and quickly checked if the people will adopt their own customary method. I hope now that, taught by the experience which they have purchased, the people in Barh will be more reasonable and adopt their own effective method. But at the same time the outbreak has been so serious in Barh that I have ventured to take this opportunity of addressing my colleagues in Council and asking them to give the Government their hearty co-operation and help in carrying out these simple measures for the prevention of the spread of this fell disease."

## THE DARJEELING MUNICIPAL BILL.

The Hon'ble MR. BAKER moved that the Report of the Select Committee on the Bill to amend the Bengal Municipal Act, 1884, in its application to Darjeeling be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee.

The motion was put and agreed to.

## PREAMBLE.

The Hon'ble MR. WOODROFFE said :—"Before moving the amendments which stand in my name, I ask Your Honour's permission and the permission of the Council to allow me to move an amendment in the preamble of the Bill of which I regret to say I did not give notice in due time. The amendment which I desire to propose is to insert in the preamble, at the end thereof, the words 'and to provide for the temporary exercise by the Local Government of certain powers of the Commissioners of the Darjeeling Municipality.'"

The Hon'ble THE PRESIDENT said :—"Under rule 22 of the rules of the Council for the conduct of business, it is provided that, if a Member desires to move anything by way of amendment without notice, the President may, in the exercise of his discretion, permit the amendment to be put. I think there is no objection whatever to this amendment, and in the exercise of my discretion I authorise you to move it."

The Hon'ble MR. WOODROFFE said :—"This Bill consists of two parts. The first (Part I) contains certain permanent provisions conferring on the Municipal Commissioners of Darjeeling certain powers; the other (Part II) contains temporary provisions providing for the exercise by the Local Government of certain powers which are only to continue in force until the publication of a notification declaring that those powers shall cease to have effect. For that reason it seems to me that the preamble of the Bill does not fully set forth the purport of the Bill, and that the words I have the honour to move with Your Honour's permission ought to be added to the preamble."

The Hon'ble MR. BAKER said :—"This is a purely technical amendment, and, as the learned Advocate-General has pointed out, supplies an omission. I therefore see no objection to it."

The motion was put and agreed to.

## SECTIONS 1 TO 4.\*

The Hon'ble MR. WOODROFFE said :—"The amendment which I have to move in section 1 of the Bill and the following amendments down to the amendment marked No. 8 on the paper, though of formal appearance, are nevertheless of material importance. I do not know whether it is desirable that they should be taken together or separately. The object of those amendments is to make it clear that the Bill now under consideration is a Bill for the Darjeeling Municipality, and not for the amendment of the Bengal Municipal Act, save in so far as that Act is applicable to Darjeeling. The form of the Bill does not, I confess, specially commend itself to me. It would have, had a separate Bill been drafted in order to make provision for the special circumstances of Darjeeling. When the papers were placed in my hands the Report of the Select Committee had been presented, and it occurred to me that it was too late, and, having regard to the urgent necessity for certain works to be undertaken, it would not be proper for me to suggest the entire recasting of the whole Bill. The amendments I have referred to do, however, attain in a considerable measure, without occasioning any particular delay, the object I have in view; and I venture to think it will make it clear that this Bill is intended to apply to

\* The numbers of some of the sections of the Bill were altered by motions in Council. The present number of each section is inserted in brackets wherever the new numbering differs from the old.



the Darjeeling Municipality only, and that it is not to be extended to other districts. With that object I move the following amendments:—

- (1) that for section 1 the following be substituted, namely:—
  1. This Act may be called the Darjeeling Municipal Act, 1900;
- (2) that the words 'Amendment of the Bengal Municipal Act, 1884,' after the heading "Part I," be omitted;
- (3) that the following section be inserted immediately under the heading 'Part I,' namely:—
  3. The Bengal Municipal Act, 1884, as amended by this Act, shall extend to the Darjeeling Municipality as constituted for the time being under the said Bengal Municipal Act, 1884;
- (4) that the following words and figures be omitted, namely:—
  2. After section 1 of the Bengal Municipal Act, 1884, the following shall be inserted, namely;
- (5) that the section numbered '1A' be re-numbered '3'; that the present section 3 be re-numbered '4,' and that the numbers of the remaining sections be altered accordingly;
- (6) that in the section numbered '1A' (now 3) for the words 'this Act' be substituted the words 'the Bengal Municipal Act, 1884, as amended by this Act;'
- (7) that, in the first line of section 3 (now 4), for the words 'the said Act' be substituted the words 'the Bengal Municipal Act, 1884.'

The Hon'ble MR. BAKER said:—"I should have been very glad if it had been possible to prepare an entirely separate Bill for Darjeeling as the learned Advocate-General has proposed. That was in fact the course which commended itself to me in the beginning. I gather also from the remarks which fell from the Hon'ble Mr. APCAR on a former occasion that that was also his view, and it is a view which at first sight would probably occur to everybody. But when we came to draft the Bill we were advised that it was not practically possible to do so. I do not propose to trouble the Council now with the reasons for that view. They are of a technical character; and, as the learned Advocate-General appears to be of opinion that there is a good deal to be said on the other side, it is not absolutely certain which view is correct. However that may be, the amendments which are now before the Council are, as has been pointed out by the Advocate-General, a matter of form and do not affect the substance of the Bill in any degree. They are designed to give effect to the intention of the framers of the Bill in a manner which the Advocate-General considers to be preferable to the original draft. In these circumstances the Government has no hesitation in accepting them."

The Hon'ble MR. APCAR said:—"I think I ought not to allow the motion before the Council to go to the vote without commenting on an incident which is connected with the subject before us. The observations I shall make shall be legitimate with reference to the motion, but I do not think that they are of so much importance with relation to the motions before us as with relation to the general principles to be observed in the conduct of business in this Council. I would remind the Council that, on the occasion when my hon'ble friend Mr. Baker moved to refer the Bill to a Select Committee, I ventured to make a suggestion on the point which is embodied in the motions that are now placed before us. I by no means said that all the suggestions which emanate from me should be accepted. I have had sufficient experience in the world to know that I have much to learn, but still, when suggestions are made in Council, I do not think it is asking too much if I ask that they be considered. However, for reasons that my hon'ble friend has mentioned to-day, the suggestion which I made was summarily rejected, and we find now, on the high authority of the learned Advocate-General, that it was of sufficient importance for him to bring forward to-day these motions which practically carry into effect that which was suggested before by myself. I welcome the accession of strength to the Council that has made this possible, because I cannot but feel that, except for his presence here, it would have been hopeless to have attempted to bring forward motions of this character; for I

fully expect—and have reasons for it from past experience—that the door would have been firmly closed against any such attempt. I am glad the situation has been saved now, and I very cordially support the motions that are placed before us, and I trust I am not travelling beyond what is legitimate now if I venture to say that when Members of Council are anxious, as I have been, to place their experience and their knowledge, however humble they may be, at the service of the Council, that their suggestions will not be rejected summarily. Because it has this effect—and I may say that my experience has had influence on me now—that when I find matters of even the character under notice not entertained, I am deterred from giving consideration to other questions with regard to which it would be my pleasure and my desire in every sense to give full attention for the benefit of the Council; and when I come forward, as I think in the interests of the public, I hope it will not be felt that I am broaching a new idea when I say that it is in the interest of the Government as well. I most sincerely believe that it is the desire of Your Honour to consider all suggestions which are made, but unless this desire is given practical effect to it can be of no avail. I will only venture to say that, if it is put into practice, although my presence here has hitherto been barren of effect, I shall have reason to feel, if any change is brought about as the result of my protest, that my presence in this Council has not after all been wholly without benefit.”

The Hon'ble THE PRESIDENT said:—“I hasten to assure the Hon'ble Member that there was no lack of consideration given to his suggestions; but, as has been stated by the Hon'ble Member in charge of the Bill, the amendments which have been moved by the learned Advocate-General do not affect the merits of the Bill, but the technical part of it entirely, in regard to which we are in the hands of the lawyers. In this particular case there were two lawyers, one on one side and one on the other; and it was not until a second lawyer came to give his support to one side, that the other gave way. I hope that even in matters of urgency the Government has no desire to summarily dismiss suggestions which are made with the object of assisting the deliberations of the Council.”

The Hon'ble MR. APCAR said:—“I fully accept the assurance which Your Honour has given, and if I did not do so my observations would have been couched in far more stringent terms.”

The Hon'ble MR. WOODROFFE's motions (above set forth) were severally put and agreed to.

#### SECTION 7.

The Hon'ble BABU BOIKANTA NATH SEN moved that in section 6 (now 7), after section 182A the following be inserted, namely:—

- 182B. (1) Any person on whom a notice under section 210B, section 210C, section 244V or section 248A is served may, at any time before the expiration of the period or further period prescribed under section 182A for carrying into effect the requisition or order made by the notice, appear before the Commissioners and show cause why such requisition or order should not be complied with.
- (2) If cause is shown as aforesaid by any such person, the Commissioners shall, after hearing him, either cancel the notice or confirm the same subject to such modifications (if any) as they may think fit.

He said:—“I need only make a few observations in support of this amendment. Large powers are being given to the Commissioners under sections 210B, 210C, 244V and 248A, and very great interests will be affected. It is therefore fair and reasonable that a person whose interests might be affected should have an opportunity of making out a case against the orders of the Commissioners. It is not enough to say that there is an appeal, and I submit that the procedure which I here suggest would save a great deal of delay and expense, and there can be no harm in allowing the person interested to show cause to the Commissioners why their requisition or order should not be complied with.”



The Hon'ble MR. BAKER said:—"This amendment seems entirely reasonable. Even if an express provision to this effect were not inserted in the Bill, I imagine that, when a person is served with a notice to carry out important works, the Commissioners would be bound to hear and consider any objections which he might desire to represent. I, however, quite agree with the Hon'ble Member that it is better that a provision to this effect should be inserted in the Bill; therefore, I welcome this amendment and accept it."

The motion was put and agreed to.

#### SECTION 10.

The Hon'ble MR. WOODROFFE moved that in section 9 (*now* 10), after section 201A, sub-section (1), the following be inserted, namely:—

Provided that the Commissioners shall, before declaring any public road or part thereof to be closed, be bound to provide other reasonably sufficient means of access to holdings adjacent to such road or part, if no such means of access already exist.

He said:—"It appears to me that possibly owing to oversight a provision which finds its place in section 201, by which it is enacted that when a road is temporarily closed provision shall be made for access, has been omitted from this section, which deals with the case of a road being permanently closed, where such a provision is still more urgently required."

The Hon'ble MR. BAKER said:—"This also seems an entirely reasonable amendment, and it was undoubtedly an oversight and an omission on the part of the Select Committee not to make provision for it when they were dealing with the Bill. It will be noticed from the expression of opinion submitted by the Darjeeling Municipality that they accept this amendment, provided that the words 'reasonably sufficient' be defined to include access for dandies, ponies or foot passengers; because they consider it will not be practicable as a rule to provide access for vehicles. The term 'reasonably sufficient' would have to be interpreted with reference to the circumstances of each particular road and each particular holding abutting on that road. Access to each particular holding must be reasonably sufficient with reference to the circumstances of the particular case."

The motion was put and agreed to.

The Hon'ble MR. WOODROFFE moved that in section 9 (*now* 10), after section 201A, sub-section (2), the following be inserted, namely:—

Provided that, if the Commissioners determine to dispose of or otherwise deal with any part of such site which is adjacent to any private land or building, for any purpose other than the erection of protective works at the cost of the Municipal Fund, the owner of such land or building shall have a prior right to buy or take on lease such part at a reasonable rate.

He said:—"This amendment also deals with section 9 (*now* 10) of the Bill. In section 201A, sub-section (2), it is provided that from the date of any notice published under sub-section (1) in respect of any public road or part thereof, the Commissioners shall not be bound to maintain or repair such road or part; and the site thereof may be disposed of or otherwise dealt with in any manner the Commissioners may think fit. It occurred to me that it would be undesirable that some provision should not be made for the acquisition of such disused road or portion of disused road adjacent to a private dwelling or holding as therein described by the adjacent owner, subject always to this, that it is not wanted for protective works to be constructed at the cost of the Municipality. It may be that a road of which a large portion has been washed away may be incapable of being effectually repaired so as to make it a public road again, but a sufficient ledge might have been left on which, for instance, a water-course might with advantage be carried so as to remove the risk of erosion on the hill-side lower down, and such thing would be a protective work within the meaning of my amendment. Similarly, the space might be required for the erection of a revetment wall for the purpose of supporting a building situated above it and

preventing it coming down upon a house or building below. I only instance one or two cases; there may be others. My amendment does not propose to give the owner of the adjacent building any prior right whatever as against works of a protective character. All claims of pre-emption should yield to the interests of the public; but if the interests of the public are not involved, if the road of which such site formed a part is no longer to be repaired and kept in order in the interests of the public, then it appears to me desirable to provide that the Commissioners should give the adjacent owners the option of buying or leasing it on reasonable terms. I think I am not out of order in referring to an amendment subsequent to this and which is in identical terms with mine, save and except the substitution of the words 'to sell or let or let on lease' for the words 'dispose of or otherwise deal with.' [The Hon'ble Mr. BAKER—I leave out the words 'for any purpose other than the erection of protective works at the cost of the Municipal Fund.'] At any rate the principle of my amendment is accepted. I have considered carefully the amendment of the Hon'ble Member with my own, and fail to see why it is to be moved in the face of the amendment which stands in my name. As to that we shall probably hear more later on. But I prefer my own amendment and ask the Council to accept the larger words 'dispose of or otherwise deal,' and for these reasons; these are the words used in section 201A, and they form, therefore, the natural words in a proviso to be attached to that section. There may under the amendment of the Hon'ble Member occur a case of this kind; let me assume that the Commissioners do not determine to sell or let on lease, but merely to leave the land as it is; it may under such circumstances become a source of nuisance with a collection of rubbish or *débris* from various sites the owners of which will not be under an obligation to remove because the land is not theirs. It may also, being in no person's charge, be the cause of harm to the owners of both the upper and lower holdings. No doubt the site will still belong to the Municipal Commissioners, but it will not be capable of being dealt with under the Act as a road, and it may be subject year after year to erosion, and so in truth bring about a state of things dangerous to the upper as well as the lower holdings. If my amendment be carried, in such a case, although the Commissioners do not desire to sell or let the land on lease, they will have secured a purchaser on reasonable terms for that piece of land in respect of which the purchaser or the lessee will be under the obligations provided by law for the owners of hill sites. I cannot conceive any mode of public use or public interest which is not covered by the words 'erection of protective works.' If, however, there are any other words which can be suggested to indicate more clearly that the right of pre-emption conferred on adjacent owners should be subordinated to the rights of the public, I shall be happy to consider them. I have said that these words, as far as my abilities extend, are the most wide and most capable of being construed in the interests of the public."

The Hon'ble Mr. BAKER said:—"I have an amendment on the same point as that which is covered by the amendment now before the Council, and with Your Honour's permission I will move it now, so that it may be discussed along with the amendment of the learned Advocate-General. The amendment I have to move is that in section 9 (*now* 10), after section 201A, sub-section (2), the following be inserted, namely:—

Provided that if the Commissioners determine to sell or to let on lease any part of such site which is adjacent to any private land or building, the owner of such land or building shall have a prior right to buy or take on lease such part at a reasonable rate.

"It will be seen that my amendment in point of form is almost identical with that of the learned Advocate-General, but in point of substance it is, as I shall endeavour to show, materially different. According to my amendment, if a road is so seriously damaged that it has to be permanently closed, the Municipal Commissioners may retain their right of property in it and will be at liberty to use it for any purpose authorized by law. But if they decide that it is undesirable to retain it or to use it for any public purpose, and propose to part with it, then the owners of the adjacent lands shall have the right to purchase it or to take it on lease at a reasonable rate. That is the effect of my amendment, and I think it will be considered that it is a reasonable proposition. But the



learned Advocate-General's amendment seeks to go much further. The effect of it will be that if the Municipal Commissioners permanently close the road and desire to use the site for any purpose other than protective works, or not to use it for any purpose at all, then the adjacent owners at once get a right of compulsory purchase. However desirable it may be that the site should remain in the hands of the Municipal Commissioners, the effect of the Advocate-General's amendment will be to prevent them from retaining it. I do not agree to the Advocate-General's amendment, because it goes in my view too far, and I shall endeavour to show that it will in practice result in considerable inconvenience and is not likely to be effective even for the purpose which the Advocate-General has in view. To show the inconvenience which will result, I shall give one or two illustrations. When a road is so seriously damaged that it has to be permanently closed, the Municipal Commissioners in the first instance will as a rule wish to let it stand for some time in the hope of being able eventually to re-open it for traffic. I am not aware whether the Advocate-General's amendment would permit the Commissioners to keep it even if they did nothing with it, but in any case during that period it would be necessary for them from time to time to make certain trials or experiments to determine whether the soil had sunk to the permanent angle of safety. Until they had made these trials or experiments it would be impossible to determine whether the road could be re-opened with safety or not. These would not be protective works. They would be trials or experiments, and would not be covered by the Advocate-General's amendment; and the moment the Commissioners proceeded to carry out these trial works the adjacent owners would have their right of compulsory purchase, with the result that the eventual re-opening of the road would be made impossible.

"Then, again, when a road is closed, it is not usually the whole length of it that is destroyed, but only portions here and there, so that through communication is impossible, though other portions remain in tolerably good condition. Now, the Commissioners may want to make use of such portions of the road as are not permanently destroyed. If there are other roads conveniently situated, they would endeavour to connect portions of the damaged road with such other roads by the construction of zig-zags or diversions, so as to make some use of the portions of the old road which were not damaged. The zig-zags or diversions would not be on the site of the old road, but would have to be connected with the site of the old road. But the moment the Commissioners endeavoured to connect the zig-zag or diversion with the site of the old road, the Advocate-General's amendment would immediately come into play, and the owners adjacent to the point of contact would have power to exercise their right of compulsory purchase.

"Then I turn to the question of drains. They run along the side of every public road in Darjeeling; some of them carry off house drainage; others are surface drains and carry off water from the hillsides; some serve both purposes. When a road has been so seriously injured that it has to be closed, some of these drains must necessarily have been carried away, and it will be necessary for the Commissioners to repair or to reconstruct or perhaps entirely to remodel the system of drainage of which such drains are a part; and, as the drainage has to be carried from the top of the hillside to the bottom, it is necessary to carry the drains across the road; therefore it will be necessary to open up and utilize particular portions of the site of the old road; and, the moment the Commissioners begin to do so, the Advocate-General's amendment would come into operation. The Advocate-General suggested that a drain would be a protective work. No doubt in some cases it would be. But by no means can all drains be said to be protective works. There are drains, for instance, for sanitary purposes, such as we are familiar with in the plains, as well as in Darjeeling. Such drains would not be protective works, and would not be covered by the saving clause of the Advocate-General's amendment. Protective works are such as have been primarily constructed for giving protection; and, in order to bring any particular work within the saving clause of the amendment, it will be necessary to show that it was primarily constructed for the purpose of giving protection: it would not be sufficient to show that it incidentally had some protective effect, if the main object of it was different. I fear, therefore, that if the Advocate-General's amendment is carried the Commissioners

will be hampered and restricted in repairing their system of drainage in connection with roads which have been permanently closed.

"Now I turn to another point of perhaps even greater importance. Darjeeling has a system of filtered water-supply. The pipes convey the water from springs and settling tanks on Senchal, and distribute it throughout the town, both to private houses and to the street hydrants along the public roads. The principal main from Senchal in one or two places runs along or across the public roads, and the distributing mains in many cases run along roads for the supply of water to houses and standposts on those roads. Now, if a public road over which one of these distributing pipes runs is destroyed, it will be necessary to repair and relay the pipes; and as soon as the Commissioners commence to open up the road for that purpose, the compulsory purchase clause will come into play. The result may very probably be to throw the whole system of water-supply out of gear.

"I will give one other illustration. It relates to the electric lighting of Darjeeling, and the difficulty here is similar in kind to that which I have described in respect of the water-pipes, though I admit it is less in degree. The electric wires do not run in the soil of the public roads, because the overhead system is in force in Darjeeling; but the posts which carry the wires are placed on the public roads, and if the sites of disused public roads are allowed to become private property by right of compulsory purchase, then it will no longer be possible to place the posts upon them.

"The list of illustrations which I have given is not exhaustive; other instances might be brought. But I think it is sufficiently long to show the Council the serious inconvenience which will result if the Advocate-General's amendment is adopted.

"And I think also that the amendment is not likely to be altogether effective even for the purpose which the Advocate-General has in view, because the Municipal Commissioners have power to acquire land at any time for any purpose authorized by the law. If a holding abuts on a public road on one of its sides, the other three sides will probably abut upon other private property, and there is nothing to prevent the Commissioners from acquiring the lands surrounding such holding on three of its sides for any public purpose authorized by law. There is in fact nothing to prevent them from acquiring the disused site of the road itself after it has been compulsorily purchased by an adjoining owner. If the purpose for which the land is wanted is a legitimate one and the site is appropriate, the Local Government will not throw any obstacle in the way of acquiring it. I imagine that what the Advocate-General is afraid of is that the Commissioners may misuse their powers under the law or exercise them in an inconsiderate manner, so as to cause risk of injury to the owners of private property, and that he wishes to protect them from such misuse or risk of injury. In the first place, the Municipal Commissioners of Darjeeling entertain no such apprehensions; they have in fact expressed themselves as being strongly opposed to the particular amendment of the Advocate-General; and I would remind the Council, as I have once or twice before, that the Darjeeling Municipality is a representative body in a very exceptional sense. A large proportion of the Commissioners are owners of houses or lands in Darjeeling, and I think I am correct in saying that house-owners in Darjeeling do exercise a preponderating influence on the Municipal Board, and you will observe that those Commissioners are unanimously opposed to the Advocate-General's amendment. It is pretty evident, therefore, that the house proprietors do not apprehend that the Commissioners are likely to misuse their powers to the detriment of the owners of private property.

"But even if it be conceded that they may misuse their powers, suppose, for instance, that they allowed the site of a closed road to become a nuisance, or that they put up a slaughter-house on it, or did anything else injurious to the adjacent property, even then I maintain that the owners of such properties have a sufficient remedy already. If the use or misuse of the land by the Commissioners be such as to cause serious risk of injury or annoyance to the public or to any class or body of persons, then a remedy exists under the control sections of the Municipal Act. The local authorities and the Local



Government will have power to interfere with the action of the Commissioners and set things right. If, on the other hand, the use or misuse of such land injuriously affects only one or two persons, then such aggrieved persons will have a right to apply to the Civil Court for an injunction, and if they have a sufficient and genuine grievance and not merely a fanciful and imaginary one, I imagine that the Civil Court will be very ready to correct it.

"On broad grounds of principle, I demur to give private persons compulsory power of purchase over public property: to do so involves the sacrifice of public rights in favour of private interests. I trust therefore that the Council will not accept the amendment. The amendment I have moved is not open to these objections. It provides that only when the Municipal Commissioners desire to part with the land, and do not wish to keep it themselves or use it for any public purpose, then and then only shall the owners of the adjacent property have a prior right to purchase it or to take it on lease. And this amendment has been approved and accepted by the Municipal Commissioners of Darjeeling."

The Hon'ble MR. APCAR said:—"The learned Advocate-General and the Hon'ble Member in charge of the Bill seem to be in accord in the view that section 201A is incomplete without a proviso either in the terms moved by the Advocate-General or in terms, as it seems to me, analogous to them as proposed by Mr. Baker. Drawing upon my own experience in the Calcutta Municipality, I own myself to be strongly in support of giving power to the owners of the adjacent property who are interested in the object aimed at in the proposals before the Council. I think there is a very material difference when there is a road adjoining his land to which the owner has access, and when the site of that road is used for some purpose other than a road. I understand that the Hon'ble Member in charge of the Bill feels the full strength of that view. That being so, and the Advocate-General and Mr. Baker being so much in accord, what is the difference in the provisos which they severally have proposed? At first I was puzzled to know why the Hon'ble Member in charge of the Bill proposed an independent proviso, but now I understand the reason upon which he proceeds, and I feel the force of his reasons. The difference, as far as I can see, is this: in the proposal of the Advocate-General are the words 'dispose of or otherwise deal with,' and the proposal of the Hon'ble Member is 'to sell or let on lease.' I think the Council will be wise to follow the guidance of the Advocate-General and to adopt the wider terms which he proposes. The second point of difference is this: that in the proposal of the Advocate-General are the following words 'for any purpose other than the erection of protective works at the cost of the Municipal Fund.' These words, or any principle analogous thereto, do not find a place in the proposal of the Hon'ble Member for reasons that he has submitted. I venture to suggest—and it may perhaps meet the views of the Hon'ble Member so far as I have been able to follow them—that the words 'or for any public purpose' be inserted after the words 'protective works' in the Advocate-General's amendment."

The Hon'ble MR. BAKER said that that would make the Advocate-General's amendment identical with his own.

The Hon'ble MR. BOLTON said:—"The Hon'ble Member in charge of the Bill has given cogent reasons in detail why his amendment should be accepted in preference to that of the learned Advocate-General, and I hope that after hearing those reasons the Advocate-General will be disposed to withdraw his amendment. I would add two general grounds for objecting to the Advocate-General's amendment. In the first place, the amendment implies confiscation of property—confiscation of the property in the road which vests in the Municipal Commissioners; because it proposes to withdraw from the Commissioners the power to deal with the land as they may think fit, and to vest in the owners of the adjacent property the right of compelling the Commissioners to sell whether they think it necessary to do so or not. In the second place, the Advocate-General has observed that the land might be improperly used by the Commissioners, that it might through their use of it become a nuisance and

be a source of danger to the health of the adjoining owners or others in the neighbourhood. The Commissioners, however, being the authority responsible for improving the town and providing good sanitary arrangements, are more likely to observe proper sanitary precautions in the use of the land than a private owner. It seems to me desirable, therefore, for the very reason mentioned by the Advocate-General, that is, the likelihood of the land being improperly used, to let it remain in the hands of the Commissioners themselves."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"Every one of us must sympathise with the desire of the learned Advocate-General to safeguard the interests of private individuals as against the powers vested in the Municipal Commissioners, and therefore it is as well that we should have in this Council the Advocate-General, who stands forth as the champion of private rights. But, while strongly sympathising with the motive of the Advocate-General and his solicitude to safeguard the interests of private owners, I am bound to oppose his amendment. We have before us the deliberate, clear and emphatic opinion of the Municipal Commissioners—and my hon'ble friend Mr. Baker has given us the assurance that on the Municipality we have representatives of the householders of Darjeeling, a class of people likely to be most vigilant in the exercise of the rights of private property—and they, so far from accepting the amendment of the Advocate-General, have strongly condemned it; and when they said *no* to the amendment of the Hon'ble the Advocate-General, it is clearly not our role to say *yes* to it. From what little knowledge I possess of municipal laws I must say that the Advocate-General seems to be anxious to confer a right on private individuals which is not to be found in the whole compass of municipal legislation. We have not such a law in the Calcutta Municipal Act or in the Bengal Municipal Act. My friend the Hon'ble Mr. Apcar has been good enough to refer to a Calcutta municipal rule, but there is a great difference between that rule and the amendment of the Advocate-General; for it is only when a piece of land is not to be used by the Municipality for any public purpose that the Calcutta rule gave the owner of the adjacent land the right of pre-emption. Here the Advocate-General suggests that it is only when the land is to be used for protective purposes that the Municipality shall have a prior claim, but, as against all other public purposes, the adjacent owner shall have the right of pre-emption. With all respect to the Advocate-General I say that the drift of such a proposition is opposed to the character of all municipal legislation, and I would say further that the rights of public bodies in a municipality ought to predominate over the rights of private persons. Municipalities have gone wrong in the past; they will go wrong in the future; but private parties are more likely to go wrong, because in their case self-interest is the guiding motive. Therefore, I say that the amendment of the Advocate-General involves a principle which is opposed to the entire trend of municipal legislation. It involves a principle which gives priority to private over public rights. Having regard to these considerations, I hope the learned Advocate-General will come to the conclusion that it would be better to accept the amendment of the Hon'ble Member in charge of the Bill. The Hon'ble Mr. Apcar has suggested a compromise, but I think the matter does not admit of any compromise, and therefore I submit that the wide terms suggested by the Advocate-General in his amendment ought not to be accepted."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir, I have no desire to conceal that I came prepared to support the amendment of the learned Advocate-General, but, after hearing what has fallen from the Hon'ble Member in charge of the Bill, I have decided to vote against it. The Hon'ble Member has shown by a series of illustrations, the application of which I am not in a position to question, that, if the Advocate-General's amendment is accepted, it will lead to consequences which are by no means desirable; but, at the same time, I desire to point out to the Hon'ble Member that, if the language of the amendment of the Advocate-General is too wide, the language of his own amendment is too narrow. The words the Hon'ble Member proposes to introduce are: 'if the Commissioners determine to sell or to let on lease;' they embody the conditions under which the right of pre-emption is to arise. But there are other modes of transfer recognised in the Transfer of Property



Act. Suppose a public road is closed, and the Municipality, instead of selling the land, acquire new land in exchange for it, would not the right of pre-emption arise? I think it ought to arise. I, therefore, venture to ask whether it would not be more appropriate to add some such words as these 'or otherwise transfer.' So long as the Municipality retain the land, the right of pre-emption does not arise, but as soon as they intend to transfer the land, whether by sale, lease, gift or exchange, the right of pre-emption may be exercised."

The Hon'ble MR. WOODROFFE asked whether the Hon'ble Member in charge of the Bill would accept the suggestion made by the Hon'ble Mr. Apar to insert the words 'or other public works' after the word 'protective.' He thought he had made it sufficiently clear that he intended entirely to subordinate private interests to public interests.

The Hon'ble MR. BAKER said:—"I think the suggestion of the Hon'ble Dr. Asutosh Mukhopadhyaya is the only one I can accept. I am afraid it will be infructuous to insert the words suggested by the Hon'ble Mr. Apar, for it would not include a case in which the Municipality desired to let the road stand for a number of years."

The Hon'ble THE PRESIDENT said:—"In section 210A the words used are 'absolutely closed.' So far as I know, the only road which is to be absolutely closed is what is known as the Old Calcutta Road in Darjeeling, a most useful and delightful road with Darjeeling on the east and the railway to the south. But that road has been so seriously damaged by the rainfall of last September that it will be many years before the Municipality will be able to restore it to public use. What I have in my mind between these two amendments is to select the one which will least interfere with the Municipality retaining that old road so as to restore it in time if they think proper to do so."

The Hon'ble MR. WOODROFFE said:—"This is chiefly a practical question, and if the Hon'ble Member in charge of the Bill will accept the addition to his amendment of the words 'or otherwise transfer' which have been suggested by the Hon'ble Dr. Asutosh Mukhopadhyaya, I will ask leave to withdraw my amendment. I think this discussion has not been without its use."

The Hon'ble MR. BAKER having agreed to the suggestion of the Hon'ble Dr. Asutosh Mukhopadhyaya, the Hon'ble Mr. Woodroffe, by leave of the Council, withdrew his amendment.

The Hon'ble MR. BAKER's motion as amended by the insertion of the words "or otherwise transfer" after the words "to let on lease" was then put and agreed to.

## SECTION 12.

The Hon'ble MR. WOODROFFE moved that the words "or occupier," wherever they occur in sections 210B and 210C in section 11 (*now* 12) of the Bill, be omitted. These sections impose on the occupier a duty which it would be impossible for him to perform. The person responsible should be the owner. The occupier might in certain cases be obliged to leave the house, but the obligation to carry out the requirements of these sections should not be imposed on the occupier.

The Hon'ble MR. BAKER said:—"I agree with the Advocate-General that the occupier will in most instances be unable to do what is required under these sections, and that the owner is the person who should be called upon to do the work. I have no objection to this amendment."

The motion was put and agreed to.

The Hon'ble MR. WOODROFFE moved that in section 11 (now 12) after section 210C the following be inserted, namely :—

210D. When the safety of any hillside, bank, building or other immoveable property belonging to any person has been  
Liability of owner deriving benefit to pay compensation when action is taken under section 210B or section 210C. ensured by any action taken under section 210B or section 210C in respect of any building, wall or structure belonging to another person, the owner of the former property shall, anything to the contrary in the said sections or either of them notwithstanding, be liable to pay to the owner of the latter property such compensation as the Court may consider just: Provided that no such compensation shall be payable in any case in which the plaintiff has received full compensation under this Act.

He said:—"Under sections 210B and 210C there is given complete power to deal with lands or buildings which in any way threaten the stability or security of some portion of a hillside below or above that land, or interfere with buildings thereon or below, extending even to the taking down of the building itself. Under these circumstances, it appears desirable to make provision in the Act that, notwithstanding anything contained in those sections, the owner of the property which is to be removed shall be compensated for the expense he has incurred by the owner of the property which is benefited to such extent as to the Court may seem just. There might not be many cases which would fall under the provisions of the section which I have the honour to propose, but it is, I think, desirable that some such provision should be made for such cases. In some cases representations may be made by private owners calling attention to such matters; though if the Commissioners are active they will themselves take such measures without private intervention. But circumstances may occur which may render such private owners liable to pay compensation to the persons whose property has been removed or in respect of which expense has been incurred for their benefit. The words are 'pay such compensation as the Court may consider just.' When this amendment was before the Commissioners of the Darjeeling Municipality, if I mistake not, the words 'such compensation as the Court may consider just' were not before them. But, be that as it may, they apparently approve of this suggestion of mine, with this observation that they consider that no compensation should be payable to any person who by his own neglect contributed to the action of the Commissioners. To that I entirely agree, and I was under the impression that the words 'may consider just' were large enough and would serve to cover such cases. But, as I entirely concur in the opinion that a person should not be liable to pay compensation if the action taken by the Commissioners was due to the neglect of the person who has to incur expense under these sections, I will ask permission to insert the following words in the last proviso of my amendment after the word 'plaintiff'—'by his act or omission conduced towards the taking of such action as aforesaid, or'."

The Hon'ble THE PRESIDENT granted the permission asked for.

The Hon'ble MR. BAKER said:—"I think this amendment is a perfectly reasonable one. The only doubt I have is whether the addition of the words just proposed is necessary in consequence of the effect of the clause immediately preceding—'the owner of the former property shall, anything to the contrary in the said sections or either of them notwithstanding, be liable to pay to the owner of the latter property such compensation as the Court may consider just.' Those were not the words submitted to the Darjeeling Commissioners for their opinion. What was sent to them was a former draft which merely said that the owner of the property benefited shall be liable to contribute towards the expense incurred by the owner of the other property. The learned Advocate-General subsequently altered his amendment, no doubt having in his mind the same idea as has since been suggested by the Municipal Commissioners. I agree that the addition of the words now proposed makes the intention clearer than before. It has been suggested that this amendment is likely to lead to litigation, but, even if it does, I think the amendment a reasonable one. If action is taken under this section, and that action also benefits the property of some other person, then both the parties may reasonably be expected to share in the cost of the work. I think that is a reasonable



and fair proposition, and I should have thought that even without this amendment the right to sue for compensation would arise under the common law."

The Hon'ble Mr. BOLTON said—"I doubt the wisdom of introducing the proposed section 210D. Action under sections 210B and 210C will be taken either at the instance of the Commissioners or of private proprietors. If such action is taken by the Commissioners and they consider it necessary, why should the owner of the other property be called upon to pay? On the other hand, a provision rendering a private individual liable for compensation when he moves the Commissioners would have the effect of deterring such persons from applying for action under these sections which might be very necessary for the protection of property. Let us, again, assume that a property where an improvement becomes necessary is above several properties which will also be benefited. Should the owners of all the properties below pay compensation to the owner above, and how is the compensation to be distributed between them? Further, if the expenditure has to be incurred on account of, say, a landslip caused by excessive rain, for which they are in no way responsible, can the owners of the properties below be rightly made liable to pay compensation to the owner of the property in which the landslip occurred? Finally, I would point out that there is no other similar provision in the Bill for the payment of compensation by the owners of private property: compensation is to be paid by the Municipal Commissioners alone."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am in sympathy with the observations which have been made by the Hon'ble Mr. Bolton. This is an instance of legislation entering far too much into details, and the effect might be to complicate things. We have not anything corresponding to this in any legislation in this part of India. I would leave the considerations suggested by this amendment to be determined by the Courts of law."

The Hon'ble Mr. OLDHAM said:—"I am in entire agreement with the remarks which fell from the last two speakers. In the Select Committee we found a good number of proposals by which the Darjeeling Commissioners hoped to improve the ordinary law for carrying on the administration, but they were relentlessly excised by us because they were beyond the scope of this Bill, which is a Bill to provide for the security of Darjeeling station. I know of no provision of law like this amendment of the learned Advocate-General. It is true it does not confer any new power, for, under the common law, it will be open to the individuals concerned to institute a suit for compensation; but this provision comes outside this special law as a sort of excrescence. There has been special legislation for the sanitarium of Naini Tal in the same way as is now proposed for Darjeeling, but it affords no precedent for any provision of this kind."

The Hon'ble BABU JATRA MOHAN SEN said:—"In my opinion this amendment should not be accepted, and the ordinary law ought to be allowed to prevail. Every owner is bound to use his property in such a way as not to interfere with the safety of property belonging to other persons; otherwise he commits a nuisance. Therefore, I would leave this matter to the operation of the common law and to the general rules of equity."

The Hon'ble Mr. WOODROFFE said:—"Having regard to what has fallen from the Hon'ble Mr. Bolton and from the Hon'ble Member in charge of the Bill, both of them looking at this question from different points of view, I find that I have been misunderstood by both of them. On one point I really am impressed with the sense that this amendment does not really form part of the scope of the Bill as it was introduced. It was not intended by me to confer any right other than that which exists by law, but simply for the purpose of safeguarding against improper action taken by private owners in putting the Commissioners in motion. If, however, it appears to the Council that it is likely to involve a large amount of litigation, which I do not at all intend, I shall be glad to withdraw my motion."

The motion was then, by leave of the Council, withdrawn.

## SECTION 15.

The Hon'ble MR. WOODROFFE moved that for the words "in such proportions as the Commissioners may direct" at the end of section 228 in section 14 (*now* 15) of the Bill, be substituted the following, namely:—

in proportion to the benefits derived by them respectively.

(4) The said proportion shall be determined by the Commissioners.

He said:—"This section does not afford any indication to the proportions in which expenses incurred thereunder are to be borne. I submit it is reasonable that these costs and expenses should be determined, not at the will of the Commissioners, but according to the benefits to be derived respectively by the parties concerned, and that the proportions should be settled by the Commissioners."

The Hon'ble MR. BAKER accepted this amendment, the object of which, he said, was to give the Commissioners a guiding principle to go by.

The motion was put and agreed to.

## SECTION 21.

The Hon'ble RAJA, SASHI SHAKHARESWAR ROY, BAHADUR, OF TAHIRPUR, moved that after sub-section (2) of section 351D in section 20 (*now* 21) of the Bill the following be inserted, namely:—

(3) In dealing with any appeal preferred to him under sub-section (2), the Engineer shall be assisted by two assessors, one of whom shall be selected by the Commissioners and the second by the private party concerned from a list prepared annually by the Deputy Commissioner under sub-section (1) of section 351G.

If the Commissioners or the private party concerned fail within a reasonable time, of which due notice shall be given by the Engineer, to select their respective assessor, the Engineer shall select the assessor not so selected.

The assessors so selected shall then be summoned by the Engineer, but, if any assessor so summoned fails to appear, the appeal may be heard in his absence.

The assessors, if present, shall be consulted by the Engineer, and their opinion shall be recorded in writing, but the Engineer shall not be bound to conform to their opinion.

He said:—"I need say very little by way of explaining the reasons which have prompted me to move for the acceptance of the amendment. My object will appear on the very face of it. This amendment, if accepted, will not weaken or put any obstacle whatever to the work of administration of the Municipality. On the other hand, it will, in my humble opinion, greatly strengthen the hands of the Court which shall have to deal with the appeals, while it will give some satisfaction to the private parties concerned to know that their cases will be carefully considered and decided by a competent body, a member of which they shall have the right to select themselves. It is greatly to be regretted that there is not a public association at Darjeeling whose opinion I could cite in support of my proposal, but in its absence I would, with Your Honour's permission, read a few lines from the *Darjeeling Standard*, a local paper edited by a European gentleman, which, I understand, represents the views and opinions of the European residents and the landed proprietors of Darjeeling. In the *Darjeeling Standard* of Thursday last, I find the very suggestions which I have embodied in my amendment. The paper says:—

'Another important phase of the Bill is, that appeals are provided against the orders of the Commissioners in all building matters, &c., to the appellate Engineer to be appointed. And is such appellate Engineer to sit alone and decide? Should he not be helped by assessors, practical men of local experience? Now there is a provision for the Commissioner of the Division to hear appeals about the appropriation of expenses to be paid by several persons, and then the Commissioner of the Division, such a high authority as that, is to be aided by assessors; and why should not a similar provision be made when the appellate Engineer shall deal with the valuable properties of the people? It is only just and right that there should be a provision to this effect which will secure evenhanded justice.'



The Hon'ble MR. BAKER said :—"I am sorry I cannot accept this amendment. I hoped when the Hon'ble Raja began to read the extract from the *Darjeeling Standard* that we should hear what the reasons are for putting forward this proposal, but I find that there is absolutely none. Neither the Hon'ble Mover nor the *Darjeeling Standard* have noticed the distinction between the class of appeals which will lie to the Commissioner and those which will go to the Engineer and be disposed of by him. The cases which will be heard by the Commissioner, aided by assessors, relate exclusively to orders for the apportionment of expenses. A matter of that kind is not purely a professional or technical one, and it is one in which the assistance which can be given by the owners of houses may be of material help. On the other hand, the cases in which the appeal lies to the Engineer are of an entirely different description. They are enumerated in section 351D. They include such matters as an order to construct a revetment, an order refusing permission to use a site, an order permitting a house to be built only upon certain conditions, and the like. Every one of those matters is a purely technical and engineering question, and questions of that kind can only be decided with promptitude and correctness by an Engineer. A non-professional man will probably not understand the nature of the questions to be dealt with. The Hon'ble Raja was unable to quote the opinion of any public Association in favour of his proposal. I am not surprised at that, because the provisions of the Bill in this respect have been framed on the express recommendation of a meeting of the owners and occupiers of houses in Darjeeling. They held a meeting on the 28th October, and their report is among the papers before the Council. They recommended that an appeal as to apportionment of expenses should lie to the Commissioner aided by assessors, but that appeals as to other matters should lie to the Engineer alone. These proposals were accepted by Government and were incorporated in the Bill."

The Hon'ble MR. BUCKLEY said :—"I would have been glad to have supported this amendment if I thought it would add anything to the efficiency of this Bill, or if any practical good would have resulted from the operation of it. The Hon'ble Member in charge of the Bill has already stated what I had intended to say, and having myself gone carefully through all the matters in respect of which an appeal will lie under section 351D, on which the Engineer would be called upon to give his opinion, I do not think that in any of those cases the Engineer would receive any substantial assistance except from assessors who are experts in such matters. The assessors for whom the amendment provides are not likely to be experts, and I fear that they would hamper rather than assist the Engineer, and might raise disputes and cause delay in the settlement of matters referred to the Engineer."

The motion was put and negatived.

#### SECTION 21.

The Hon'ble the ADVOCATE-GENERAL moved that section 21 of the Bill be omitted. He said :—"Under section 362 of the Act it is provided that 'the Commissioners may make compensation from the Municipal Fund to any person sustaining any damage by reason of the exercise of any powers conferred by this Act.'

"That section embodies the law as it has been known in this country and in England since the constitution of public bodies possessed of powers to interfere with private property for the benefit of the public. The manner in which that section has been construed in this country and in England is that when a proper occasion occurs the public body shall make compensation. No reason has been suggested for the introduction of this provision in the Bill. It would place the Municipality of Darjeeling in a unique position wholly different from that of other Municipalities in Bengal. I submit, therefore, that the provisos sought to be added to section 362 of the Act ought not to be adopted."

The Hon'ble MR. BAKER said :—"The Government has decided to accept this amendment. Section 21 of the Bill, to which the Advocate-General takes

objection, was inserted on the recommendation of Mr. Joscelyne's Committee. They referred to it in more than one place in their reports and proceedings, but they did not state clearly the reasons for which they desired to have such a provision in the Act. Personally I have always felt that we were not on very firm ground in inserting such a provision: that was also the feeling of the Select Committee, and they adopted this section with considerable hesitation. The Hon'ble Babu Jatra Mohan Sen took exception to it, and the Hon'ble Mr. Oldham also said that the solution proposed was not a perfect one. I think the Select Committee acted in the belief that, notwithstanding the express provision contained in section 21 of the Bill, it would still be open to the Commissioners to pay compensation in cases of hardship at their discretion, and that no one would be in a position to interfere with them. Since then we have received the matured opinion of the Commissioners of Darjeeling, and it appears that the general feeling there is that compensation should be obtainable, but that claims should be referred to the appellate authority constituted by section 351H, namely, the Commissioner aided by two assessors. Their original intention was that every claim for compensation should be referred in this way, but on further consideration they thought there was no objection to confining it to the period during which the provisions of Part II might remain in operation. In that view the Government has decided to accept this amendment, and also to make the necessary addition to Part II of the Bill of which I have given notice."

The Hon'ble BABU JATRA MOHAN SEN said:—"The Hon'ble Member in charge of the Bill has mentioned that this proposed addition to section 362 of the Act had puzzled me, and I was for its omission. With such a provision in the Bill, I think I was right that the Civil Courts had no power to grant compensation. I recently came across a ruling also to that effect. I am glad that Government has decided to accept this amendment of the Hon'ble the Advocate-General, and I am clearly of opinion that it should be accepted."

The motion was put and agreed to.

#### NEW SECTION.

The Hon'ble MR. BAKER moved that after section 24 the following be inserted, namely:—

- 24 (now 25). (1) Every claim for compensation from the Municipal Fund for damage sustained by reason of the exercise of any power conferred by any clause enacted by this Act shall be referred to the Commissioner of the Division.
- (2) Every such reference must, except as provided in clauses (a) and (b) of section 351F of the Bengal Municipal Act, 1884, be made within one year after the exercise of the said power; and the provisions of sections 351G and 351H of the said Act as to appeals shall apply thereto.
- (3) No compensation shall be payable under section 362 of the said Bengal Municipal Act, 1884, for any damage referred to in sub-section (1) of this section, except under the orders of the Commissioner of the Division.

He said:—I explained just now the genesis of this amendment. It originated in a recommendation of the Darjeeling Municipal Commissioners made at a meeting on the 4th January last. Their instruction then was that claims for compensation should be referred to the appellate authority as a permanent arrangement. Subsequently, however, they have intimated that they see no objection to this reference being confined to the period during which the temporary provisions are in force, i.e., for only so long as the Local Government is exercising the new powers conferred by the Bill.

"The amendment has therefore been included in Part II, and will cease to have effect as soon as the Government publishes a notice under section 24 terminating the operation of that Part.



"And I think there is a good reason why during this period a reference should be made to the appellate authority. During this period Government will be exercising the new powers conferred by the Bill on behalf of the Municipal Commissioners. I am advised that a claim for compensation arising out of the exercise of these powers will have to be made to, and determined by, the Local Government, and not by the Municipal Commissioners themselves. In that case it seems to be reasonable that the authority which decides the claim should be assisted by representatives of the house-owners and residents of Darjeeling, and this is secured by the constitution of the appellate authority."

"When, however, the temporary provisions of Part II cease to be in force, the need for this will cease. For not only will the claim for compensation be then heard and decided by the Municipal Commissioners, but the claim itself will have arisen out of the exercise of powers by the Municipal Commissioners themselves, and not out of any action of the Local Government on their behalf. Government will in fact not be concerned in the matter at all, and there is no particular object in interposing a reference to a Government officer."

"It should be clearly understood that in either case the person aggrieved will have the right to sue for compensation in the Civil Court. With that right it is not proposed to interfere. The present amendment relates only to the stage prior to the possible filing of a civil suit."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"After the explanation just given by the Hon'ble Member in charge of the Bill that the jurisdiction of the Civil Court will not be interfered with even during the period of suspended animation of the Municipal Commissioners, I have no objection to this motion."

The motion was put and agreed to.

The Hon'ble MR. BAKER moved that the necessary alterations be made in the numbering of the remaining sections of the Bill.

The motion was put and agreed to.

The Hon'ble MR. BAKER moved that the Bill as amended be now passed. He said:—"I don't think I need detain the Council with any lengthy remarks. The object of the Bill was fully described when it was introduced and referred to the Select Committee. The report of the Select Committee was unanimous, and the amendments which have been discussed to-day relate only to comparatively minor matters not affecting any essential feature of the Bill. It may therefore be fairly taken that the Bill in all material particulars has received unanimous acceptance at the hands of the Council. I hope it will speedily become law, and that under its operation the hands of the Municipal Commissioners of Darjeeling will be strengthened, so that they may be enabled to protect the one sanitarium of Bengal from such disasters as that which befel it last September."

The motion was put and agreed to.

The Council was then adjourned to Saturday, the 3rd March, 1900.

CALCUTTA;

The 19th March, 1900.

F. G. WIGLEY,

Assistant Secretary to the Govt. of Bengal,  
Legislative Department.



SPECIAL SUPPLEMENT TO  
**The Calcutta Gazette.**

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WEDNESDAY, MARCH 28, 1900.

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*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,  
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Saturday, the 3rd March,  
1900.

**Present:**

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal,  
*presiding.*

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. J. PRATT.

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. C. W. BOLTON, C.S.I.

The Hon'ble MR. R. B. BUCKLEY.

The Hon'ble MR. F. A. SLACK.

The Hon'ble MR. E. N. BAKER.

The Hon'ble KHAN BAHADUR MAULVI DELAWAR HOSAIN AHMED.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble BABU JATRA MOHAN SEN.

The Hon'ble MR. T. W. SPINK.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble MR. D. F. MACKENZIE.

The Hon'ble DR. ASHUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.



## QUESTIONS AND ANSWERS.

## LICENSING OF THE SALE OF DATE-JUICE IN CHITTAGONG.

The Hon'ble BABU JATRA MOHAN SEN asked:—

“Will the Government be pleased to lay on the table a statement of receipts (and the cost of realizing the same) derived from the licensing of sale of date-juice in the Chittagong Division for the last two years?”

“Is the Government aware that date-juice in the Chittagong Division, with the exception, perhaps, of the Cox's Bazar Subdivision of Chittagong, is mainly used by the people in preparing sweet rice or pudding and making *gur*, and is not used or drunk as fermented *tari* to be amenable to *abkari*-duty?”

“Having regard to the fact that Dacca and other places have been exempted from assessment of duty in respect of date-juice, will the Government be pleased to extend similar exemption to the Chittagong Division or to such portion of it as the Government may deem fit to exempt?”

The Hon'ble MR. BAKER replied:—

“The receipts from license-fees for the sale of fermented and unfermented *tari* in the Chittagong Division during the two years 1897-98 and 1898-99 were as follows:—

			Fermented.	Unfermented.	Total.
			Rs.	Rs.	Rs.
1897-98	...	...	1,004	1,462	2,466
1898-99	...	...	347	1,984	2,331

“It is not possible to give the cost of realizing this revenue, as the work is done by the ordinary district excise staff, and no special establishment is employed.

“Government has no special information as to the manner in which date-juice is used by the people of the Chittagong Division, but by section 62 of the Bengal Excise Act of 1878 the restrictions on the possession of *tari* without a license are abrogated in the case of *tari* when supplied or used for the manufacture of *gur* or molasses. That section is of general application throughout the province.

“The exemption of unfermented *tari* in the Dacca Division is no longer in force, having been withdrawn in 1896.”

## ZAMINDARI DAK ESTABLISHMENT.

The Hon'ble BABU JATRA MOHAN SEN asked—

“Will the Government be pleased to lay on the table a statement showing the actual establishment maintained out of the zamindari dâk fund, supplementing the statement supplied in answer to the question put by the Hon'ble the Raja of Nashipur?”

“Will the Government be pleased to order an inquiry to be made as to (1) whether the Imperial Post Office arrangements have not rendered the maintenance of a separate establishment out of the zamindari dâk fund unnecessary; (2) if not, whether the postal authorities may not be asked to further extend their operations as to render the zamindari dâk unnecessary; (3) or, if it is deemed necessary to retain the tax permanently, whether the assessment cannot be reduced, and whether a fixed rate or a rate on a fixed principle may not be assessed and realized together with road and public works cesses or land-revenue, instead of leaving it to be assessed, from time to time, by the Collectors of districts and realized by a separate establishment as now?”

The Hon'ble MR. SLACK replied:—

“The very bulky file containing the manuscript reports yearly furnished during the last ten years by Commissioners on this subject has been laid on the table and is open for the Hon'ble Member's inspection.

"With regard to the second paragraph of the question put by the Hon'ble Member—

(1) Government is satisfied that, for the convenience of the country, the zamindari dâk cess cannot be discontinued, but is absolutely required to supplement the arrangements of the Imperial Post Office.

(2) There is no reason to think that the Postal authorities do not, whenever possible, extend Imperial arrangements.

(3) To fix the rate permanently would, in the opinion of Government, be to deprive the fund of the elasticity which is essential for its proper management. It is at present levied on a fixed principle, *viz.*, the requirements for each district, for a period of five years, and is not realized by a separate establishment, but by one and the same establishment as that which is employed in keeping the land-revenue accounts."

#### NIGHT TRANSHIPMENT OF PASSENGERS ON THE ASSAM-BENGAL RAILWAY.

The Hon'ble BABU JATRA MOHAN SEN asked—

"Has the attention of the Government been drawn to the fact that at Laksam junction, on the Assam-Bengal Railway line, great inconvenience is caused to passengers travelling by railway, by reason of their having to tranship at that place at an unusual hour of night, especially when there is no waiting-room for ladies and gentlemen nor any shed for third class passengers? Will the Government be pleased to direct the attention of the Railway authorities to remedy this evil by providing through carriages and waiting-rooms and shelter-shed, or by making some other arrangement?"

The Hon'ble MR. BUCKLEY replied:—

"The attention of Government has not before been drawn to this matter. Enquiries having been made, it is found that the only passengers by the night service of trains required to change at Laksam are those who have not availed themselves of the through accommodation provided on the mail trains passing Laksam at night. Through first and second class accommodation and a limited amount of through third class accommodation is provided on the mail trains passing Laksam at night between all stations north and south of Laksam and Chandpur, and through third class accommodation is provided on trains between stations north and south of Laksam.

"There are waiting-rooms at Laksam for both ladies and gentlemen, first and second class, and there is a waiting-shed for third class passengers.

"The timing of the mail trains is fixed with reference to the steamer service. There is a second service of trains in the day time, of which passengers who object to night travelling can avail themselves."

#### EMPLOYMENT OF BOY TICKET-COLLECTORS ON THE EASTERN BENGAL STATE RAILWAY.

The Hon'ble BABU SURENDRANATH BANERJEE said:—

"I have the honour to ask if the attention of the Government has been called to the employment of boy ticket-collectors at the Sealdah and other stations by the authorities of the Eastern Bengal State Railway. Whether it is the case that one of these boys was found guilty of assault committed upon a passenger and fined five rupees by the Deputy Magistrate of Sealdah, who described his conduct as "reprehensible," and whether, having regard to the delicate and difficult nature of the duties of a ticket-collector, who has to deal with a large number of ignorant men and women, the bulk of the third class passengers, the Government will consider the propriety of suggesting to the authorities of the Eastern Bengal State Railway the advisability of employing grown-up men as ticket-collectors?"

The Hon'ble MR. BUCKLEY replied:—

"The Lieutenant-Governor has seen the proceedings in the case, to which his attention was drawn by the Hon'ble Member. He agrees with the Magistrate who tried it, and steps have been taken which will, he trusts, prevent the recurrence of such incidents."



## PLAGUE CASES IN CALCUTTA AND THE MAFASSAL.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR, said—

"It appears from the vital statistics published in the newspapers that the number of plague cases in Calcutta is daily increasing and that plague has also appeared in some of the mafassal districts in Bengal. Will the Government be pleased to state what steps it contemplates to take in the matter?"

The Hon'ble MR. BAKER replied:—

"It is true that there has been a considerable and steady rise in the numbers in Calcutta during the past five weeks. The cases have been most numerous in wards 2 and 5.

"As regards the steps taken to check the disease, the Council are aware that the measures on which the Government places most reliance in Calcutta and other large towns are, firstly, to endeavour to obtain the earliest possible information of each case or suspected case, and, secondly, to have the house in which the case occurred disinfected. With regard to the former of these, information is now being furnished more readily; and a few days ago several cases were openly registered as plague at the burning ghâts. Nevertheless, it is a matter for regret that the people themselves, the house-holders, and above all the private medical practitioners, are still far from being sufficiently alive to the great importance of reporting at once cases they come to know of. Under the rules, both house-holders and medical practitioners are legally bound to report cases, and the Lieutenant-Governor desires to express a hope that every Member of this Council, their friends, and all who occupy positions of influence in Calcutta will do their utmost to impress on all classes of the people the urgent necessity of notifying every case they happen to hear of to the Health Officer. The public are well aware that Government enforces no measures which are repugnant to the sense of the people, and that no consequences follow to which reasonable objection can be taken. There is, therefore, no excuse for concealment, and the Government are confident that the Health Officer will receive more and more hearty co-operation. The Lieutenant-Governor has himself twice visited infected localities within the last ten days with the Chairman and the Health Officer, and has been pleased to see the good will of the people to the efforts made for their help.

"As regards disinfection, which has been our sheet anchor in Calcutta, the Lieutenant-Governor is informed that it has scarcely ever happened that a second case has occurred in a house or room which has once been properly disinfected. Every effort has been and is being made to secure the prompt disinfection, not merely of the actual room occupied by the person attacked, but also of adjoining rooms occupied by his relations or neighbours. Since the disease began to increase, two additional disinfecting gangs have been engaged, and increased attention has been paid to the sanitation of the city.

"The increase of plague in the city has, the Government regret to say, been far surpassed in the Patna Division. The measures taken were described to the Council at the last meeting. The strenuous labours of the local officers are at last meeting with some success, and the reports show greater readiness in the villagers to leave their houses when attacked by plague. On this depends the whole success of the operations. In the town of Barh itself the number of attacks has begun to show a decrease".

The Hon'ble BAHU SURENDRANATH BANERJEE, with the permission of the Hon'ble the President, asked if there had been any bacteriological examinations with regard to these cases.

The Hon'ble MR. BAKER said:—"No. It is not usual to make such examinations. But I may add that the medical staff are now seeing cases of plague during life."

AMENDMENT OF BENGAL ACT I OF 1869 (*Cruelty to animals*).

The Hon'ble MR. SLACK presented the Report of the Select Committee on the Bill to amend Bengal Act I of 1869 (*an Act for the prevention of cruelty to animals*).

The Council was then adjourned to Saturday, the 31st March, 1900.

CALCUTTA;  
*The 27th March, 1900.*

} F. G. WIGLEY,  
*Asst. Secretary to the Govt. of Bengal,*  
*Legislative Department.*



REGISTERED No. 29.]



# SPECIAL SUPPLEMENT TO The Calcutta Gazette.

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WEDNESDAY, MAY 30, 1900.

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*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal  
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Saturday, the 31st March,  
1900.

**Present:**

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal  
*presiding.*

The Hon'ble Mr. J. T. WOODROFFE, Officiating Advocate-General, Bengal.

The Hon'ble Mr. W. B. OLDHAM, C.I.E.

The Hon'ble Mr. J. A. BOURDILLON, C.S.I.

The Hon'ble Mr. C. E. BUCKLAND, C.I.E.

The Hon'ble Mr. F. A. SLACK.

The Hon'ble Mr. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble RAJA RANAJIT SINHA, BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble Mr. J. G. APCAR.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.

The Hon'ble Mr. H. ELWORTHY.

**NEW MEMBERS.**

The Hon'ble Mr. J. A. BOURDILLON and the Hon'ble Mr. H. ELWORTHY took  
their seats in Council.

## QUESTIONS AND ANSWERS.

## THE DUM-DUM RIFLE RANGE.

The Hon'ble BABU SURENDRANATH BANERJEE asked :—

"Has the attention of the Government been called to the case of an accidental death of a lad who was hit by a stray bullet in the vicinity of the rifle range near the Dum-Dum Cantonment?"

"In answer to a question which I asked in connection with a similar case of accidental death near the same rifle range, the Government was pleased to say that 'a proposal for the re-alignment of the range so as to guard against all possibility of danger to the villagers was already under the consideration of the Military Department, and the necessity for completing the works by an early date would be brought to the notice of that Department.'

"Will the Government be pleased to state whether the works referred to in the above reply of the Government have been completed? If not, when will they be completed? And, if they have been completed, whether the Government considers them as satisfactory in view of the accident to which I have referred."

The Hon'ble MR. BOURDILLON replied :—

"The attention of Government has been called to the case to which the Hon'ble Member is believed to refer. On the 24th January a lad named Sheikh Azad Ali was struck by a stray bullet while in the fields behind the Dum-Dum rifle range, and died almost immediately. The people of the neighbourhood had been warned by the police and by beat of drum not to go near the rifle range, as firing would take place on the date in question. The deceased with his father unfortunately disregarded this warning.

"As regards the second part of the question, the reply of the Government of India has not yet been received."

## MR. LLOYD'S CASE.

The Hon'ble BABU SURENDRANATH BANERJEE asked :—

"Has the attention of the Government been called to a case of assault committed by a Sub-Deputy Magistrate of Chaibassa, Mr. Lloyd, upon a highly respectable pleader, Babu Rakhal Chandra Chatterjee, B.L.? Is it the case that Mr. Lloyd belaboured this gentleman with a stick, and that when he was called before the Deputy Commissioner he feigned madness? If so, will the Government be pleased to state what notice has been taken by the Government of this conduct on the part of Mr. Lloyd?"

The Hon'ble MR. BOURDILLON replied :—

"Mr. Lloyd did, under misapprehension, strike the pleader with his cane. An enquiry was held by the Deputy Commissioner, and the pleader desired that the matter should be carried no further. The desire was generous, and the Lieutenant-Governor considered no action necessary beyond the transfer of Mr. Lloyd from Chaibassa."

## SPECIAL CONSTABLES AND PUNITIVE POLICE IN DINAPORE.

The Hon'ble BABU SURENDRANATH BANERJEE asked :—

"Is the Government aware that the establishment of a punitive police and the enlistment of special constables at Dinapore have excited much adverse criticism? Is it necessary to have both? Will the Government be pleased to state the circumstances under which it became necessary to adopt these measures?"



The Hon'ble MR BAKER replied :—

“The measures which form the subject of the question were rendered necessary by the riotous conduct of a large number of people in Dinapore, who, on the 27th February last, broke out into forcible resistance to the operations of the local officers, used violence towards the Cantonment Magistrate and police, and eventually burnt down both the segregation camps. The riot was of a serious character, and necessitated the calling out of the troops.

“Special constables were enrolled by the District Magistrate (who has power to do so without reference to higher authority), because some of the upper classes are believed to have practically instigated their proceedings.

“It is not now necessary to have both special constables and punitive police, and the former have now been withdrawn.”

#### PROCEEDINGS OF MR. MAGUIRE.

The Hon'ble BABU SURENDRANATH BANERJEE said :—

“I have the honour to ask whether the attention of the Government has been called to certain proceedings of Mr. Maguire, Deputy Commissioner of Manbhum, in connection with the mining lease in which some differences arose between Messrs. Bird and Company and the East India Coal Company ?

“Is it the case that Mr. Maguire deliberately and illegally set aside, in his executive capacity, and not as a Court of appeal, the judicial finding of the Sub-divisional Officer, Mr. Garrett, that he described the order as unjustifiable, and that he subsequently procured the transfer of Mr. Garrett, on the ground that he did not seem to be able to control Mr. Smith, the Manager of the East India Coal Company, although that officer had done nothing but his duty ?

“Is it the case that Mr. Maguire, as Manager of the Raja of Kathras, recorded a memorandum stating that, notwithstanding the judicial finding of the Sub-divisional Officer to the contrary, the East India Coal Company were not in any sort of legal possession, and directed that Messrs. Bird and Company should be put in possession, that a copy of this memorandum recorded by him as Manager was sent to himself as Magistrate, that as Magistrate he proceeded to give effect to his orders as Manager, and Police-officers were stationed to prevent the East India Coal Company from proceeding with their mining operations, that a complaint was subsequently made against the servants of the East India Coal Company for trespass, which was dismissed by the Sub-divisional Officer of Raniganj, to whom, owing to the proceedings of Mr. Maguire, the case had been transferred by the order of the High Court, and yet, subsequent to this order, Messrs. Bird and Company, acting under the direction of Mr. Maguire, entered upon the coal mines and took wrongful possession of them, although the Board of Revenue had expressed the strongest disapproval of the orders purporting to be passed by Mr. Maguire as Manager ?

“Is it the case that the High Court severely censured Mr. Maguire for his proceedings in this case, in the following terms :—

“The arbitrary character of the orders passed in favour of Messrs. Bird and Company, and the abuse of his authority as District Magistrate by the Deputy Commissioner, Mr. Maguire, in persisting in his endeavours to give possession to his own lessees, Messrs. Bird and Company, regardless of the opposition on behalf of the East India Coal Company, who were judicially found to be in possession on the 20th March, are very lamentable, not only so far as they affect the Deputy Commissioner, Mr. Maguire, personally, but so far as they injuriously affect private rights, which, in this case, we are powerless to restore.”

“Will the Government be pleased to state whether it approves of the proceedings of Mr. Maguire referred to above ? If not, will the Government kindly state, for the information of the Council and the public, what orders, if any, it has passed to mark its disapprobation of the proceedings of Mr. Maguire ?”

The Hon'ble MR. BOURDILLON replied :—

“The attention of the Government has been called to these proceedings, and the Commissioner of Chota Nagpur has already been asked to report on the matter. The Hon'ble Member's questions will be answered when that report has been received and considered by the Lieutenant-Governor.”

## BENGAL FINANCIAL STATEMENT FOR 1900-1901.

The Hon'ble MR. BAKER laid on the table the Financial Statement for 1900-1901. He said:—

“In the ordinary course this Statement will come up for discussion at the next meeting of this Council on Saturday next. I will take this opportunity of asking that any Hon'ble Member who may wish to ask for any information or explanation or to raise any points of comment, will be good enough, if he possibly can, to give me notice not later than the morning of Wednesday next. It is impossible for me to carry a great mass of details in my head: and it will be convenient for me if I have sufficient time to get any information which Hon'ble Members may require.”

### EXPLANATORY NOTES ON THE BENGAL FINANCIAL STATEMENT FOR 1900-1901.

#### PART I.—General Review.

##### ACCOUNTS OF 1898-99.

In the statement which was laid before the Council on the 8th April, 1899, it was assumed that the year 1898-99 had opened with a credit balance of Rs. 9,22,000, and had closed with a balance of Rs. 34,37,000; that the total amount available for expenditure during the year was Rs. 4,86,39,000 and that of this sum Rs. 4,52,02,000 had been spent. The actual result proves to have been worse than this estimate by Rs. 3,21,137. The amount actually available for expenditure was Rs. 4,85,63,523, and the amount actually expended during the year amounted to Rs. 4,54,47,660, thus leaving a closing balance of Rs. 31,15,863. This reduction in the balance was chiefly due to smaller collection of Land Revenue, and larger expenditure under Civil Works in charge of the Public Works Department especially owing to earthquake damages.

##### REVISED ESTIMATE, 1899-1900.

2. The budget estimate for 1899-1900, as passed by the Government of India, accepted Rs. 34,37,000 as the opening balance, and provided for receipts aggregating Rs. 4,64,08,000 and an expenditure of Rs. 4,79,08,000, so that the year should close with a balance of Rs. 19,37,000. The revised estimate now passed provides for a total revenue of Rs. 4,71,07,000, and an expenditure of Rs. 4,67,17,000, with an opening balance of Rs. 31,16,000. The net result is a surplus of Rs. 3,90,000 against a deficit of Rs. 15,00,000 anticipated last year, giving a net betterment of Rs. 18,90,000.

3. On the receipt side the revenue is expected to show an increase of Rs. 6,99,000, of which Rs. 3,37,000 is under Stamps and Rs. 2,50,000 under Excise, owing to general prosperity; Rs. 77,000 under Forests due partly to sleeper operations in the Tista and Buxa Divisions, and partly to the sale of larger quantities of firewood and charcoal from the Darjeeling Depôt; Rs. 60,000 under Jails due to larger issues of Jail manufactures; and Rs. 99,000 under Irrigation—Major Works, chiefly in the Sone Canals. Against these increases there are decreases of Rs. 32,000 under Provincial Rates, Rs. 55,000 under Registration, and Rs. 49,000 in Miscellaneous receipts of the Police Department.

4. The net decrease of expenditure is Rs. 11,91,000. Of this Rs. 99,000 occurred under Courts of Law, owing partly to savings under Salaries and Process-servicing Establishments, partly to some of the Law Officers having received officiating instead of full pay for part of the year, and partly to two temporary vacancies in the High Court not having been filled up. Rupees 1,21,000 occurred under Jails, owing to smaller outlay on raw materials; Rs. 2,05,000 under Police, in consequence of large savings under Salaries of the Calcutta and District Police Forces; Rs. 45,000 under Marine chiefly for smaller outlay on stores, &c., Rs. 97,000 under Education, due to savings in salaries, in boarding and other charges of the Sibpur Engineering College, and the Eden Hostel, and in the establishments of net grant schools; and Rs. 2,04,000 under Irrigation—Minor Works and Navigation, of which 53,000 is due to a write-back of capital expenditure in the Orissa Coast Canal, and 1½ lakhs is due to smaller outlay on agricultural and



drainage works in consequence of the transfer of a corresponding sum to Civil Works, for expenditure on the special repairs in Darjeeling occasioned by the cyclone. These total up to Rs. 7,71,000. The explanation of the remainder of the total decrease, which amounts to Rs. 4,20,000, is as follows. Just before the last budget was presented, the Government of India made a lump grant of 17 lakhs to the Local Government mainly in view of past and future expenditure on famine relief and plague. Of this, 3 lakhs were employed in raising the closing balance of the year towards the prescribed minimum of 20 lakhs; and the remainder, 14 lakhs (which was shown in the budget provisionally under 45—Civil Works by Civil Department), was distributed in the form of supplementary grants to different departments, as explained in paragraph 5 of last year's Financial Statement. These supplementary grants included items aggregating Rs. 7,60,000 for plague charges and grants to local authorities, and Rs. 4,50,000 to the Public Works Department. The expenditure on account of plague measures has fortunately fallen short of the provision made, and there is a saving of Rs. 2,20,000 on this account. The Public Works Department have not been able to utilize fully the total grants given to them and show a saving of about Rs. 1,20,000. Lastly, under the head of Contributions to Incorporated Local Funds, there has been a saving of Rs. 82,000. The provision under this head includes a reserve for unforeseen grants that may be required during the year, and cannot be forecasted exactly.

#### BUDGET ESTIMATE, 1900-1901.

5. The budget estimate for 1900-1901, as now passed adopts Rs. 35,06,000 as the opening balance, and provides for receipts aggregating Rs. 4,69,74,000 and expenditure of Rs. 4,79,82,000 including Rs. 4,40,000 on Famine Relief, leaving a closing balance of Rs. 24,98,000. Compared with the budget estimate for 1899-1900, the total receipts for 1900-1901, show an increase of Rs. 5,66,000, while, as compared with the revised estimate, there is a decrease of Rs. 1,33,000. The estimates for next year are based on the latest available actuals of the current year. Provision has been made for the normal expansion of revenue under the heads of Provincial Rates, Assessed Taxes and Registration. On the expenditure side the total grant is Rs. 4,79,82,000 against Rs. 4,79,08,000, the budget estimate for 1899-1900. The budget is explained more fully in the following paragraphs.

#### PART II.—Detailed remarks on the Budget for 1900-1901.

##### RECEIPTS.

6. *Land Revenue*.—The total collections under Land Revenue in 1898-99 amounted to Rs. 4,04,47,854, and the estimate for 1900-1901, as passed by the Government of India, based on the latest actuals is Rs. 4,09,00,000, which is also the revised estimate for 1899-1900. The estimate for 1900-1901 includes Rs. 3,75,000 for recoveries on account of the Bihar Survey and Settlements charges, against Rs. 7,24,042, the actuals of 1898-1899, and Rs. 3,75,000 provided for in the revised estimate for 1899-1900.

7. The adjustments between Imperial and Provincial will probably result in a net transfer of Rs. 18,05,000 to Imperial, as shown below:—

	Rs.
Fixed contribution to Imperial Revenues under the terms of the Contract ... ..	14,19,000
Add—Payable to Imperial Revenues—	
For transfer of the South Lushai administration to Assam	3,75,000
Compensation for loss to the excise revenue of the North-Western Provinces and Oudh consequent on the importation of Shahjahanpur rum in bond to Bengal ...	6,000
Contribution for Dr. Stein's deputation for Archaeological researches ... ..	5,000
Total sum to be transferred to Imperial ... ..	18,05,000

8. The estimated Provincial share of Land Revenue is arrived at as follows:—

	Rs.
Gross Land Revenue ... ..	4,09,00,000
<i>Deduct</i> 12 per cent. on collections from Government estates (Provincial) ... ..	5,89,000
<i>Deduct</i> recoveries of Bihar Survey and Settlement charges (Imperial) ... ..	3,75,000
Total deduction ... ..	9,64,000
Net amount divisible between Imperial and Provincial Funds ... ..	3,99,36,000
Provincial share of above (one-fourth) ... ..	99,84,000
<i>Deduct</i> on account of adjustments as shown above ... ..	—18,05,000
Net ... ..	81,79,000
<i>Add</i> 12 per cent. on collections from Government estates ... ..	5,89,000
Total Provincial share ... ..	87,68,000

9. *Stamps*.—The budget estimate of the total revenue from Stamps for 1899-1900 was passed by the Government of India for Rs. 1,77,50,000. The actuals in 1898-99 amounted to Rs. 1,73,81,080, and the latest returns from the Comptroller-General show that the receipts during the first ten months of 1899-1900 exceeded those of the corresponding period of the preceding year by Rs. 7,11,000. In view of these figures, both the revised estimate for 1899-1900 and the estimate for 1900-1901 have been placed at Rs. 1,82,00,000. The Provincial share is three fourths of this sum, and amounts to Rs. 1,36,50,000.

10. *Excise*.—The budget estimate of the total revenue under this head for 1899-1900 was Rs. 1,35,00,000 against Rs. 1,34,27,055, the actuals of 1898-99. The Comptroller-General's latest statement shows that the receipts during the first ten months of 1899-1900 exceeded those of the corresponding period of the preceding year by Rs. 4,81,000. Assuming that the growth of this branch of the revenue may be checked in Chota Nagpur and Puri where the crops have been poor, the total receipts for the year will probably not fall short of Rs. 1,40,90,000 which has been adopted both as the revised estimate for 1899-1900, and the estimate for 1900-1901. The Provincial share (one-half) amounts to Rs. 70,00,000.

11. *Provincial Rates*.—The budget estimate of total receipts from Provincial Rates for 1899-1900 was Rs. 47,97,000. The actuals of 1898-99 under Public Works Cess amounted to Rs. 45,07,157, and under General Rate for management of private estates to Rs. 2,02,704, while the collections in the first ten months of 1898-99 show an increase of Rs. 77,000 under the former head and a decrease of Rs. 32,000 under the latter, as compared with the corresponding period of the preceding year. In view of these figures, the revised estimate for the total of Provincial Rates has been placed at Rs. 47,65,000 and the estimate for 1900-1901 at Rs. 48,00,000. An increase in Cess is expected in the districts of Dacca and Faridpur on the completion of revaluations in those districts.

12. *Assessed Taxes*.—The budget estimate of receipts from Income-tax for 1899-1900 was passed by the Government of India for Rs. 51,50,000. The actual collections in 1898-99 amounted to Rs. 50,90,916, and the latest returns from the Comptroller-General show that the receipts during the first ten months of 1898-99 exceeded those of the corresponding period of the preceding year by Rs. 97,000. The revised estimate for 1899-1900 has been passed for Rs. 52,00,000, and the estimate for 1900-1901 has been placed at Rs. 52,86,000. The Provincial share (one-half) is Rs. 26,43,000.

13. *Forests*.—The total receipts under this head for 1900-1901 are estimated at Rs. 10,49,000, against Rs. 11,15,000, the revised estimate for 1899-1900. The decrease is due to the transfer, with effect from the beginning of 1900-1901, of a portion of the Sonthal Parganas Protected Forests in the Saoria tract of the Rajmahal subdivision from the Forest Department to the Civil authorities, in consequence of which the revenue derived from this portion



of the forests will be credited under Land Revenue. The Provincial share (one-half) amounts to Rs. 5,24,000.

14. *Registration*.—The budget estimate under this head for 1899-1900 was Rs. 15,50,000 against Rs. 15,80,164, the actuals of 1897-98, and Rs. 14,75,009, the actuals of 1898-99. The receipts in 1897-98 were the highest on record, and were due to famine, which caused an abnormal increase in the number of registrations. The revised estimate for 1899-1900 has been placed at Rs. 14,40,000 and the estimate for 1900-1901 at Rs. 14,80,000. The Provincial share (one-half) amounts to Rs. 7,20,000 and Rs. 7,40,000 respectively.

15. *Interest*.—The estimate of loans for 1900-1901, as passed by the Government of India provides for a return of Rs. 3,96,000 under Interest, thus:—

Interest on—				Rs.
Advances to cultivators	...	...	...	56,000
Drainage and embankment advances	...	...	...	88,000
Loans to landholders	...	...	...	13,000
Loans to municipal and District Boards	...	...	...	1,75,000
Government securities of the Education Department	...	...	...	14,000
Miscellaneous accounts	...	...	...	50,000
Total				3,96,000

16. *Jails*.—The proceeds of Jail Manufactures showed a steady increase from 1893-94, but received a check in 1898-99. In view of the actual receipts of 1897-98 amounting to Rs. 10,26,570 the estimate for 1900-1901 has been passed for Rs. 10,23,000.

17. *Police*.—The estimate under this head is Rs. 2,11,000 against Rs. 2,19,000, the revised estimate for 1899-1900, and Rs. 2,43,006, the actuals of 1898-99. In 1898-99 there was a large demand for Police from Railway Companies.

18. *Marine*.—The budget estimate for 1899-1900 was Rs. 11,00,000, which has been raised to Rs. 11,10,000 in the revised estimate, with reference to the actuals of the first nine months of the year. The increase is mainly under Pilotage Receipts in Calcutta, which fluctuate with the tonnage of vessels visiting and leaving the port. The estimate for 1900-1901 is Rs. 11,32,000.

19. *Education*.—The estimate under this head amounts to Rs. 7,00,000, against Rs. 6,90,000, the revised estimate for 1899-1900, and Rs. 6,65,622, the actuals of 1898-99. The increase is due to larger receipts expected from the Eden Hindu Hostel.

20. *Medical*.—The estimate under this head is Rs. 2,01,000, against Rs. 2,02,000, the revised estimate for 1899-1900, and Rs. 1,61,733, the actuals of 1898-99. In 1898-99 the contribution of the Calcutta Municipality for the maintenance of the Campbell Hospital was not credited till after the close of the year, and the receipts from Lunatic Asylums were exceptionally low.

21. *Scientific and other Minor Departments*.—The total receipts for 1900-1901 are estimated at Rs. 2,04,000 against Rs. 1,96,000, the revised estimate for 1899-1900, and Rs. 2,00,990, the actuals of 1898-99. The increase is chiefly under Public Gardens and is expected to accrue from the sale of stone for building purposes from the Birch Hill Park in Darjeeling.

22. *Miscellaneous*.—The receipts under this head are essentially fluctuating. The estimate for 1900-1901, based on past actuals, has been placed at Rs. 7,04,000 against Rs. 6,87,000, the budget estimate for 1899-1900.

23. *Irrigation Major Works (Direct Receipts)*.—The budget estimate for 1899-1900 was Rs. 17,01,000, and the revised estimate is taken at Rs. 18,00,000; the reason of the increase is that the receipts from the Midnapore and Sone Canals are expected to be better than the budget estimate. The actual receipts during 1898-99 were Rs. 18,53,877, of which Rs. 13,08,952 was from water rates only. The budget estimate for 1900-1901 is Rs. 17,18,000.

24. *Minor Works and Navigation, in charge of the Public Works Department*.—The estimate of receipts for 1900-1901 is Rs. 6,39,000 against Rs. 6,25,243, the actuals of 1898-99. An increase is expected in Nadia rivers.

25. *Civil Works*.—The estimate of receipts by the Public Works Department is Rs. 1,73,000 against Rs. 1,93,000, the budget estimate for 1899-1900. The falling off is due to an expected decrease in the profits from the

Darjeeling-Himalayan Railway, owing to the heavy damage done to the line by the cyclone of September last. The estimate of receipts by the Civil Department is Rs. 2,88,000 against Rs. 2,83,000, the budget estimate for 1899-1900. An increase is expected by the local officers from ferry settlements.

#### EXPENDITURE.

26. *Refunds and Drawbacks.*—The total Provincial expenditure in 1900-1901 is estimated at Rs. 1,83,000, against Rs. 1,78,000, the revised estimate for 1899-1900, and Rs. 1,87,937, the actuals of 1898-99. The actuals for 1898-99 included a special refund of Provincial Rates to the Narhan Estate in the district of Darbhanga in respect of the revenue-free lands belonging to it. The estimate for next year includes a special provision of Rs. 11,000 for refund of mesne profits on account of drift timber, to Rani Amriteswar Debi of Baikantapur Estate.

27. *Assignments and Compensations.*—The actual expenditure in 1898-99 amounted to Rs. 1,22,788 only and left large arrears to be paid. The estimate for 1900-1901 is Rs. 2,00,000 which provides for the payment of arrears.

28. *Land Revenue.*—The estimate of expenditure for 1900-1901 amounts to Rs. 40,06,000, against Rs. 39,28,000, the budget estimate for 1899-1900, and Rs. 40,56,000 the revised estimate for the current year, as shown below:—

	1899-1900.		Estimate, 1900-01.
	Budget.	Revised.	Rs.
	Rs.	Rs.	
(1) Charges of District Administration	30,27,000	31,00,000	31,68,000
(2) Management of Government estates	5,04,000	5,00,000	5,00,000
(3) Survey and Settlement	3,07,000	3,73,000	2,45,000
(4) Land Records and Agriculture	90,000	83,000	95,000
Total	39,28,000	40,56,000	40,06,000

The increase under (1) is due to larger provision made under salaries and establishment for the creation of an eighth grade of Deputy Magistrates and Deputy Collectors for a considerable increase in the higher grades of the Provincial Service, and for 73 Assistant Magistrates against 61 in 1899-1900. A provision of Rs. 25,000 has also been made for the reproduction of village maps of Orissa and Chittagong and for certain thanawari maps.

29. *Stamps.*—The estimate of expenditure for 1900-1901 amounts to Rs. 6,77,000, against Rs. 6,92,000, the budget estimate for 1899-1900. The decrease is chiefly under Stamp paper supplied from Central Stores, the estimate under which is Rs. 3,29,000 against Rs. 3,50,000, the budget estimate for 1899-1900. The Provincial share (three-fourths) is Rs. 5,08,000.

30. *Provincial Rates.*—The total grant for 1900-1901 is Rs. 1,52,000 against Rs. 1,31,000, the revised estimate for 1899-1900, and Rs. 43,732, the actuals of 1898-99. It has been decided that one-third of the actual cost of collecting both Road and Public Works Cesses, instead of a fixed sum as formerly, shall be paid from Provincial Revenues with effect from the 1st April, 1899, and this explains the increase in expenditure under this head.

31. *Forests.*—The budget grant for 1900-1901 is Rs. 5,89,000, against Rs. 5,60,000, the estimate for 1899-1900. The budget includes Rs. 11,000 for sleeper operations in the Buxa and Teesta Divisions; Rs. 19,000 for half the cost of a new steamer to replace S. S. *Cygnat* for the Sunderbuns Division, and Rs. 17,000 for a survey in the Singhbhum Division.

32. *Registration.*—The estimate for 1900-1901 is Rs. 9,09,000 against Rs. 9,28,000, the budget estimate for 1899-1900. The decrease is in proportion to the estimated decrease in receipts.

33. *General Administration.*—The total Provincial expenditure in 1899-1900 was originally estimated at Rs. 16,95,000, but in the revised estimate this has been raised to Rs. 17,25,000. The increase is distributed among several heads as shown in Appendix B. The estimate for 1900-1901 is Rs. 17,05,000, to provide for larger expenditure under Civil Offices of Account and Audit.

34. *Law and Justice.*—*Courts of Law.*—The budget estimate under this head for 1899-1900 was Rs. 90,74,000, but the revised estimate has been reduced to Rs. 83,75,000, for the reasons explained in paragraph 4 above. The estimate



for 1900-1901 has been passed for Rs. 91,70,000, which includes provision for the increased rates of pay sanctioned for the Judges of the High Court. Larger provision has also been made for the salaries of additional Assistant Magistrates and for the creation of an eighth grade of Deputy Magistrates and Deputy Collectors comprising 74 appointments. It should be explained that one-half of these charges are shown under "Land Revenue," and the remaining half under this head.

35. *Jails*.—The estimate under this head for 1899-1900 was Rs. 24,41,000, but the actuals of the first nine months indicate that the grant for the purchase of raw materials will not be fully utilised. The revised estimate has accordingly been placed at Rs. 23,20,000. The estimate for 1900-1901 is Rs. 23,69,000.

36. *Police*.—The following table compares the estimates of expenditure under this head:—

	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.
		Budget.	Revised.	
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
Presidency Police ...	7,75,384	8,19,000	7,65,000	8,26,600
Municipal Police ...	45,274	49,000	47,000	50,000
Superintendence ...	1,68,420	1,58,000	1,54,000	1,58,000
District Executive Force ...	47,23,637	48,12,000	46,90,000	48,48,600
Village Police ...	19,179	39,000	19,000	46,000
Special Police ...	1,50,502	1,44,500	1,43,000	1,46,000
Railway Police ...	1,36,078	1,37,000	1,37,000	1,54,500
Cattle-pounds ...	3,084	4,000	4,000	3,300
Refunds ...	1,072	2,500	1,000	1,000
Total ...	60,22,630	61,65,000	59,60,000	62,34,000

The actuals for the first nine months of 1899-1900 indicate that there will be savings under Presidency Police owing to the sanction of the Secretary of State to the re-organisation of the Police Force having been received late in the year; and also under salary charges of District Executive Force which were over-estimated in the budget. The revised estimate of total expenditure has been passed for Rs. 59,60,000 against Rs. 61,65,000, the budget grant for 1899-1900. The estimate for 1900-1901 amounts to Rs. 62,34,000. Under Presidency Police provision has been made for the re-organisation of the police, as recently sanctioned by the Secretary of State, at a cost of Rs. 75,402.1 Under District Executive Force provision has been made for the substitution of Sub-Inspectors for head-constables as investigating officers in accordance with the recommendation of the Police Commission. Under Railway Police the increased charges are due to additional police force sanctioned for new railways.

37. *Marine*.—The estimate for 1900-1901 is Rs. 9,61,000 against Rs. 9,66,000, the sanctioned estimate for 1899-1900. The decrease is under Repairs.

38. *Education*.—The total expenditure for 1900-1901 has been estimated at Rs. 29,80,000 against Rs. 29,47,000, the sanctioned grant for 1899-1900. Provision has been made for a new training college for teachers in connection with the Kurseong Boarding School and for a cooking class in the Kurseong Girls' School; for larger grants for the training of teachers and stipends to pupil-teachers; and for Engineering and Survey Schools; while the allotment for grants-in-aid has been raised from Rs. 6,10,000 to Rs. 6,40,000. On the other hand there is a reduction in salaries, and supplies and services, in Arts Colleges.

39. *Medical*.—The original budget grant for 1899-1900 was Rs. 19,65,000, but as explained in paragraph 39 of the last Financial Statement the budget was supplemented by an additional grant of Rs. 7,60,000 for preventive measures against plague and grants-in-aid of local fund expenditure on

plague measures, including the refund of the contributions paid by District Boards and Municipalities during the previous year. The grants-in-aid and refunds of contribution on account of the year 1898-99 aggregated Rs. 5,39,639 as shown below :—

	Rs.
(1) Grant to Calcutta Municipality for direct charges under Plague Regulations ... ..	2,50,000
(2) Grant to Howrah Municipality for local expenditure on plague ... ..	30,000
(3) Grant to District Funds for ditto ... ..	94,808
(4) Refund of contributions made by District Boards, &c., towards costs of plague camps ... ..	59,836
(5) Refund of contributions made by the Calcutta Municipality ... ..	82,641
(6) Refund of contributions made by Mufassal Municipalities ... ..	22,354
Total ... ..	5,39,639

Of these (1) and (2) aggregating Rs. 2,80,000 and all direct expenditure incurred by Government during 1899-1900 are adjustable under this head; while (3) and (4) amounting to Rs. 1,54,644 will be taken under "Contributions to Incorporated Local Funds"; and (5) and (6) under "Miscellaneous." The revised estimate for the year amounts to Rs. 23,24,000. The grant for 1900-1901, including a provision of Rs. 2,85,000 for plague measures, is Rs. 22,26,000.

40. *Scientific and other Minor Departments.*—There is an increase of Rs. 4,000 only as compared with the budget estimate for 1899-1900, which is due to larger grants for the Birch Hill Park and the Victoria Pleasance in Darjeeling. The details under Minor heads are shown in Appendix B.

41. *Superannuation.*—The charges under this head show a progressive increase year after year owing to the increase in the claims to pensions. The estimate for 1900-1901 is Rs. 23,00,000 against Rs. 22,30,000, the budget estimate for 1899-1900, and Rs. 21,44,088, the actuals of 1898-99.

42. *Stationery and Printing.*—The estimate for 1900-1901 is Rs. 12,45,000 against Rs. 11,46,000, the sanctioned estimate for 1899-1900, and Rs. 12,14,129, the actuals of 1898-99. A provision of Rs. 6,25,000 has been made for stationery supplied from central stores, against Rs. 5,60,000 provided in 1899-1900; and larger grants have been provided for the establishment of the Superintendent of Stationery and for supplies and services and contingencies of the Government Presses.

43. *Miscellaneous.*—The estimate under this head for 1900-1901 is Rs. 2,61,000 against Rs. 2,55,000, the budget estimate for 1899-1900, showing an increase of Rs. 6,000. A provision of Rs. 5,000 has been made to meet the charges of indigent pilgrims conveyed to their homes at Government expense.

44. *Famine Relief.*—A provision of Rs. 4,40,000 has been made as detailed below against Rs. 87,000 estimated to be spent in 1899-1900.

	1899-1900. Rs.	1900-1901. Rs.
For relief works and gratuitous relief, in the Chota Nagpur Division ... ..	27,000	4,00,000
For relief works and gratuitous relief, in the Orissa Division ... ..	60,000	1,00,000
Advances to grain-dealer ... ..	...	.....
Total ... ..	87,000	5,00,000
Deduct—Recoveries from grain-dealers of advances made in 1899-1900 ... ..	.....	60,000
Balance ... ..	87,000	4,40,000

45. *Irrigation—Major Works.*—Under the category of Major Works are included the Orissa Canals, the Midnapore Canal, the Hijili Tidal Canal, and the Sone Canals, the outlay for the construction and extension of which has for the most part been advanced from the Imperial Treasury. The Provincial



Government, which gets all the receipts from these works, is responsible for the maintenance of them and for the payment of interest on the capital invested in them. The total grant for working expenses for 1900-1901 is Rs. 13,31,000 against Rs. 13,80,000, the budget grant for 1900-1901, Rs. 13,76,000, the revised estimate for the year, and Rs. 13,43,316, the actuals of 1898-99 as shown below :—

NAME OF CANAL.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.
		Budget.	Revised.	
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
Orissa Canals ... ..	4,65,598	4,46,000	4,50,489	4,37,000
Midnapore Canal ... ..	2,69,703	2,69,000	2,89,374	2,38,000
Hijili Tidal Canal ... ..	48,535	53,000	41,490	50,000
Sone Canals ... ..	5,59,480	6,12,000	5,94,647	6,06,000
Total ... ..	13,43,316	13,80,000	13,76,000	13,31,000

46. *Irrigation—Minor Works in charge of the Public Works Department.*—The estimate for 1900-1901 is Rs. 15,03,000 against Rs. 14,84,000, the budget estimate for 1899-1900, and Rs. 13,89,470, the actuals of 1898-99. The grant for expenditure on Capital Account has been raised from Rs. 78,390 in 1899-1900 to Rs. 2,67,650 in 1900-1901, to provide for an outlay of Rs. 1,86,750 on the Calcutta and Eastern Canals, for the *bhil* route between the Kumar and Madhumati rivers; while the provision for agricultural works has been reduced from Rs. 8,61,510 in the estimate for 1899-1900 to Rs. 7,35,300 in 1900-1901.

47. *Civil Works.*—The expenditure in charge of the Public Works Department for 1900-1901 has been placed at Rs. 37,50,000 which is distributed thus :—

	Rs.
Original Works ... ..	11,68,751
Repairs ... ..	16,20,870
Establishment ... ..	9,30,379
Tools and plant ... ..	30,000
Total ... ..	37,50,000

The allotment includes the following grants for original works :—

	Rs.
Cuttack Commissioner's office ... ..	30,000
Double Munsifi at Narainganj ... ..	13,500
Triple do. at Madaripur ... ..	27,300
Double do. at Bogra ... ..	12,200
Subdivisional Court at Thakurgaon ... ..	13,500
Ditto at Gumla ... ..	33,000
Subdivisional Residence at do. ... ..	11,800
Residences for Munsifs ... ..	15,000
Circuit-house at Motihari ... ..	20,000
Re-construction of distillery building at Monghyr... ..	20,000
New subsidiary jail at Gumla ... ..	10,000
Presidency General Hospital ... ..	2,00,000
Construction of feeder roads ... ..	1,46,800
Re-construction of roads damaged by cyclone in Darjeeling ... ..	2,71,200
Ditto of Municipal works damaged by cyclone in Darjeeling ... ..	1,30,000

48. *Civil Works in charge of the Civil Department.*—The estimate for 1899-1900 included a special lump grant of 14 lakhs sanctioned by the Government of India, which was distributed by the Local Government to several departments as explained in paragraph 5 of the last Financial Statement. Excluding

this, the grant for 1899-1900 was 1 lakh, which has been raised to Rs. 1,65,000 in the revised estimate which includes the following special grants:—

	Rs.
To Darjeeling Municipality for repairs of damages caused by landslips ... ..	25,000
For improvements of the Victoria Pleasance at Darjeeling ... ..	5,000
To Rangpur Municipality for re-excavating canal ... ..	5,000
„ Bhagalpur ditto for sinking wells ... ..	10,000
„ Khulna ditto for a dispensary ... ..	4,000
Total ... ..	49,000

The estimate for 1900-1901 is Rs. 1,46,000, which includes special provision for grants to municipalities for the construction of public works.

### BENGAL PROVINCIAL REVENUE.

(In Rupees omitting 000's excepting in the Actuals.)

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate 1900-1901.
		Budget.	Revised.	
1	2	3	4	5
Opening Balance ... ..	Rs. 9,22,000	Rs. 34,37	Rs. 31,18	Rs. 35,06
Principal Heads of Revenue—				
I.—Land Revenue { Proper ... ..	1,03,52,479	1,05,20	1,05,74	1,05,73
Adjustments ... ..	—67,401	—17,42	—17,90	—18,05
IV.—Stamps ... ..	1,30,35,810	1,33,13	1,36,50	1,36,50
V.—Excise ... ..	67,13,528	67,50	70,00	70,00
VI.—Provincial Rates ... ..	47,09,861	47,97	47,65	48,00
VII.—Customs ... ..	1,02,920	2,18	2,16	2,20
VIII.—Assessed Taxes ... ..	25,45,458	25,75	26,00	26,43
IX.—Forests ... ..	4,86,157	4,80	5,57	5,24
X.—Registration ... ..	7,37,604	7,75	7,20	7,40
Total ... ..	3,86,16,316	3,76,92	3,82,92	3,83,45
XII.—Interest ... ..	4,06,130	4,02	4,20	3,96
Receipts by Civil Departments—				
XVI.—Law and Justice—				
Courts of Law ... ..	8,26,777	8,09	8,00	8,30
Jails ... ..	9,92,684	11,00	11,60	10,23
XVII.—Police ... ..	2,43,006	2,68	2,19	2,11
XVIII.—Marine ... ..	11,21,808	11,00	11,10	11,32
XIX.—Education ... ..	6,65,622	6,64	6,90	7,00
XX.—Medical ... ..	1,61,733	2,10	2,02	2,01
XXI.—Scientific and other Minor Depart- ments ... ..	2,00,990	1,92	1,96	2,04
Total ... ..	42,12,620	43,43	43,77	43,01
Miscellaneous—				
XXII.—Receipts in aid of superannuation ... ..	63,108	62	62	63
XXIII.—Stationery and Printing ... ..	1,60,617	1,67	1,76	1,66
XXV.—Miscellaneous ... ..	9,15,319	6,87	6,87	7,04
Total ... ..	11,39,042	9,06	9,25	9,33
Irrigation—				
XXIX.—Major Works (direct receipts) ... ..	18,53,877	17,01	18,00	17,18
XXX.—Minor Works and Navigation—				
By Public Works Department ... ..	6,25,243	6,63	6,54	6,39
By Civil Department ... ..	1,27,849	1,38	1,26	1,26
Total ... ..	26,06,969	25,02	25,80	24,83
Buildings and Roads—				
XXXII.—Civil Works—				
By Public Works Department ... ..	2,08,436	1,93	1,93	1,73
By Civil Department ... ..	2,36,189	2,83	2,65	2,88
Total ... ..	4,44,625	4,76	4,58	4,61
Contributions ... ..	1,65,821	87	55	55
Total ... ..	4,76,41,523	4,64,08	4,71,07	4,69,74
GRAND TOTAL ... ..	4,85,63,525	4,98,45	5,02,23	5,04,80



## BENGAL PROVINCIAL EXPENDITURE.

(In Rupees, omitting 000's, excepting in the Actuals.)

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.
		Budget.	Revised.	
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
Direct Demand on the Revenue—				
1. Refunds and Drawbacks ...	1,87,937	1,78	1,78	1,83
2. Assignments and Compensations ...	1,22,788	1,74	1,57	2,00
3. Land Revenue ...	41,04,343	39,28	40,56	40,06
6. Stamps ...	4,78,669	5,19	4,95	5,08
7. Excise ...	3,39,778	3,50	3,45	3,51
8. Provincial Rates ...	43,762	70	1,31	1,52
9. Customs ...	7,85,745	9,28	8,97	9,32
10. Assessed Taxes ...	95,998	97	95	98
11. Forests ...	2,43,160	2,80	2,75	2,94
12. Registration ...	4,49,769	4,64	4,40	4,54
Total ...	68,51,949	69,88	70,69	71,78
Interest—				
13. Interest on Ordinary Debt ...	2,44,773	2,51	2,38	2,37
14. Interest on other obligations ...	64	.....	.....	.....
Post Office, Telegraph, and Mint—				
15. Post Office ...	2,648	3	3	3
Salaries and Expenses of Civil Department—				
18. General Administration ...	17,62,287	16,95	17,25	17,05
19. Law and Justice { Courts of Law ...	89,33,506	90,74	89,75	91,70
{ Jails ...	23,59,320	24,41	23,20	23,69
20. Police ...	60,22,630	61,65	59,60	62,34
21. Marine ...	9,24,317	9,66	9,21	9,61
22. Education ...	27,95,600	29,47	28,50	29,80
24. Medical ...	19,58,897	19,65	23,24	22,26
25. Political ...	39,941	21	21	20
26. Scientific and other Minor Departments ...	4,11,374	4,67	4,50	4,71
Total ...	2,52,07,872	2,57,41	2,55,46	2,61,36
Micellaneous—				
29. Superannuation, &c. ...	21,44,088	22,30	22,08	23,00
30. Stationery and Printing ...	12,14,129	11,46	11,86	12,45
32. Miscellaneous ...	1,92,116	2,55	2,30	2,61
Total ...	35,50,333	36,31	36,24	38,06
Famine Relief and Insurance—				
33. Famine Relief { Civil ...	22,927	.....	75	} 4,40
{ Public Works Department ...	.....	.....	12	
Total ...	22,927	.....	87	4,40
Irrigation—				
42. Major Works—				
Working Expenses ...	13,43,316	13,80	13,76	13,31
Interest on Debt ...	24,56,969	24,55	24,55	24,55
43. Minor Works and Navigation—				
By Public Works Department ...	13,89,470	14,84	12,80	15,03
By Civil Department ...	5,421	6	6	6
Total ...	51,95,176	53,25	51,17	52,95
Buildings and Roads—				
45. Civil Works—				
By Public Works Department ...	32,88,790	33,59	38,40	37,50
By Civil Department ...	90,444	15,00	1,65	1,46
Total ...	33,79,234	48,59	40,05	38,96
Contributions ...	9,92,694	11,10	10,28	9,91
Total ...	4,54,47,660	4,79,08	4,67,17	4,79,82
Closing Balance ...	31,15,863	19,37	35,06	24,98
GRAND TOTAL ...	4,55,63,523	4,98,45	5,02,23	5,04,80
Provincial surplus (+) or deficit (—) ...	+21,93,863	—15,00	+3,90	—10,08

## APPENDIX A.

*Bengal Provincial receipts, in detail, of minor heads.*

The figures in columns 4 and 5 are those accepted by the Government of India.  
The remarks in column 6, except when otherwise specially explained, refer to differences between columns 3 and 5

*I.—Land Revenue.*

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Gross Land Revenue	4,04,47,834	4,07,83,000	4,09,00,000	4,09,00,000	
Deduct 12 per cent. on collections from Government estates (Provincial)	5,02,034	5,90,000	5,90,000	5,90,000	
Deduct recoveries of Bihar survey and settlement charges (Imperial)	7,24,042	4,50,000	3,75,000	3,75,000	
Total deduction	12,60,076	10,40,000	9,65,000	9,65,000	
Net amount divisible between Imperial and Provincial Funds	3,01,61,778	3,97,45,000	3,99,35,000	3,99,35,000	
Provincial share of above (one-fourth)	97,90,443	99,36,000	99,84,000	99,84,000	
Deduct on account of adjustments as shown below	-67,401	-17,42,000	-17,90,000	-18,05,000	
Net	97,23,044	81,94,000	81,94,000	81,79,000	
Add 12 per cent. on collections from Government Estates	5,02,034	5,90,000	5,90,000	5,90,000	
Total Provincial share	1,02,85,078	87,84,000	87,84,000	87,69,000	

*Adjustments—*

Fixed contribution to Imperial Revenue under the Provincial Settlement	14,12,000	14,19,000	14,19,000	14,19,000	
Add payable to Imperial—					
For transfer of the South Lushai Administration to Assam	3,75,500	3,31,000	3,75,000	3,75,000	
Contribution for Dr. Stein's deputation on Archaeological researches				5,000	
For duty on Shajehanpur rum issued to Bengal from the North-Western Provinces under bond		4,000	2,000	6,500	
Total	17,94,000	17,54,000	17,96,000	18,00,500	
Deduct to be recovered from Imperial—					
Special assignment for transfer of Imperial buildings to the charge of local bodies	24,421	6,000	6,000		
Special assignment for Barrackpore Park and gardens transferred to the charge of the Local Public Works Department		5,000			
Special assignment for Assam Jubilee scholarships	2,178				
Special contribution in aid of Provincial Revenue	15,09,100				
Special contribution for grants to local bodies in aid of plague expenditure	2,00,000				
Total	17,35,599	11,000	6,000		
Net sum to be transferred	67,401	17,42,000	17,90,000	18,00,000	Retained by the Public Works Department, India.

*IV.—Stamps—*

Sale of general stamps	44,09,000	47,97,000	46,75,000	46,75,000	
of court-fee stamps	1,36,29,567	1,36,47,000	1,31,82,000	1,32,03,000	
of plain paper to be used with court-fee stamps	2,67,641	2,00,000	2,00,000	2,00,000	
Duty on impressing documents	11,594	11,000	11,000	12,500	
Fines and penalties	22,976	25,000	25,000	25,000	
Miscellaneous	88,712	10,000	40,000	20,000	
Total	1,73,81,080	1,77,80,000	1,82,00,000	1,82,00,000	
Provincial share (three-fourths)	1,30,35,810	1,33,35,000	1,36,50,000	1,36,50,000	The actuals of 1898-99 included a special receipt of Rs. 66,000 on account of Probate duty.



V.—*Excise*—

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
License and distillery fees and duties on the sale of liquors and drugs ... ..	Rs. 1,02,24,300	Rs. 1,02,35,000	Rs. 1,08,22,000	Rs. 1,08,22,000	Increase due to better settlements. Decrease due to diminished consumption owing to the rise in the selling price and to smaller exports to other provinces.
Duty on ganja ... ..	14,12,928	14,70,000	13,80,000	13,80,000	
Sale-proceeds of excise opium ... ..	17,73,741	17,80,000	17,80,000	17,80,000	
Fines, confiscations and miscellaneous ... ..	16,086	15,000	18,000	18,000	
Total ... ..	1,34,27,055	1,35,00,000	1,40,00,000	1,40,00,000	
Provincial share (one-half) ... ..	67,13,528	67,50,000	70,00,000	70,00,000	

VI.—*Provincial Rates*—

Public Works Cess ... ..	45,07,157	46,00,000	45,85,000	46,50,000	Increase expected from revaluations. Estimate based on the actual demand.
General rate for management of private estates ... ..	2,02,704	1,97,000	1,80,000	1,80,000	
Total ... ..	47,09,861	47,97,000	47,65,000	48,30,000	

VII.—*Customs*—

Sea Customs - Miscellaneous	...	...	...	92,472	2,05,000	2,05,000	2,10,000
Warehouse and wharf-rent	...	...	...	9,844	12,000	10,000	9,000
Miscellaneous—							
Fees for registration of cargo boats	...	...	...	194	1,000	1,000	200
Other items	...	...	...	410			
Total Miscellaneous	...			604	1,000	1,000	1,000
Total	..			1,02,920	2,18,000	2,16,000	2,20,000

VIII.—*Assessed Taxes*—

Deductions by Government from salaries and pensions, &c. ... ..	4,98,821	5,50,000	5,00,000	5,00,000	Includes Rs. 36,000 as receipts from the profits of the Bengal Nagpur Railway.
Deductions from interest on Government securities ... ..	14,720	15,000	15,000	15,000	
Deductions from salaries, &c., by local authority or company ... ..	60,115	62,000	62,000	62,000	
Deductions from profits of Railway Companies ... ..	5,584	3,000	3,000	39,000	
Income-tax on securities of local authority or companies ... ..	76,948	80,000	80,000	80,000	There is a progressive increase in these receipts.
Ordinary collections ... ..	43,97,789	44,00,000	45,00,000	45,50,000	
Penalties ... ..	22,836	25,000	25,000	25,000	
Miscellaneous ... ..	14,193	15,000	15,000	15,000	
Total ... ..	50,90,916	51,50,000	52,00,000	52,80,000	
Provincial share (one-half) ... ..	25,45,458	25,75,000	26,00,000	26,40,000	

IX.—*Forests*—

I.—Timber and other produce removed from the forests by Government agency ... ..	29,109	22,000	51,100	66,600	The increase is due to the expected sale of sleepers from the Tista and Buxa Divisions.
II.—Timber and other produce removed from the forests by consumers or purchasers ... ..	8,95,931	9,03,000	10,19,700	9,37,000	
III.—Confiscated drift and waif wood ... ..	11,113	10,000	8,890	8,400	
IV.—Miscellaneous ... ..	36,160	25,000	35,400	37,000	
Total ... ..	9,72,313	9,60,000	11,15,000	10,49,000	
Provincial share (one-half) ... ..	4,86,167	4,80,000	5,57,000	5,24,000	

X.—*Registration*—

Fees for registering documents ... ..	14,11,243	14,90,000	13,70,000	14,15,000	
Fees for copies of registered documents ... ..	23,107	20,000	30,000	23,000	
Miscellaneous ... ..	40,539	40,000	40,000	42,000	
Total ... ..	14,75,009	15,50,000	14,40,000	14,80,000	
Provincial share (one-half) ... ..	7,37,504	7,75,000	7,20,000	7,40,000	

*XII.—Interest—*

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
<i>Class I.—Interest on advances to cultivators—</i>	Rs.	Rs.	Rs.	Rs.	
On advances to cultivators under Land Improvement Loans Act ...	78,864	68,000	74,000	66,000	
On advances to cultivators under Agriculturists' Loans Act ...					
<i>II.—Interest on advances under Special Laws—</i>					
On Drainage and Embankment Advances ...	98,631	87,000	1,00,000	88,000	
<i>III.—Interest on loans to landholders, &amp;c. ...</i>	9,821	13,000	25,000	13,000	
<i>IV.—Interest on loans to Municipal and other Public bodies (excluding Presidency Corporations) ...</i>	1,43,016	1,71,000	1,46,000	1,75,000	
Interest on Government Securities ...	25,478	16,000	15,000	14,000	
<i>Miscellaneous—</i>					
Interest on arrears of Public Works Cess	40,717	42,000	40,000	46,000	
Interest on the Capital cost of His Honour the Lieutenant-Governor's house, &c. ...	1,357	1,300	1,300	1,000	
Interest on zamindari embankment recoveries, &c. ...	2,497	2,500	2,500	2,000	
Other items ...	859	1,700	1,300	1,000	
<i>Total Miscellaneous ...</i>	51,930	47,000	54,000	50,000	
<b>GRAND TOTAL ...</b>	<b>4,06,139</b>	<b>4,09,000</b>	<b>4,20,000</b>	<b>3,96,000</b>	

*XVIA.—Law and Justice—Courts of Law—*

Sale-proceeds of Unclaimed and Escheated Property	21,285	26,000	24,000	32,000	} Estimate based on actuals.
Court-fees realised in cash ...	23,418	50,000	54,000	55,000	
General Fees, Fines and Forfeitures ...	6,74,151	6,00,000	6,67,000	6,75,000	
Pleadership Examination Fees ...	53,347	45,000	50,000	53,000	
Miscellaneous ...	14,546	18,000	15,000	15,000	
<b>Total ...</b>	<b>8,26,747</b>	<b>8,09,000</b>	<b>8,00,000</b>	<b>8,30,000</b>	

*XVIB.—Jails—*

Jails ...	14,207	12,000	12,000	15,000	Estimate based on the actuals of past three years.
Jail Manufactures ...	8,75,477	10,55,000	11,45,000	10,08,000	Estimate based on actuals.
<b>Total ...</b>	<b>9,92,684</b>	<b>11,00,000</b>	<b>11,60,000</b>	<b>10,23,000</b>	

*XVII.—Police—*

Police supplied to Municipal, Cantonment and Town Funds ...	8,601	10,000	10,000	10,000	The receipts in 1898-99 were exceptionally high from Railway Companies.
Police supplied to Public Departments, private companies and persons ...	80,538	65,000	65,000	50,000	
Presidency Police ...	1,02,078	90,000	95,000	55,000	} Estimate based on actuals.
Recoveries on account of Village Police ...	1,325	2,000	1,000	2,000	
Fees, Fines and Forfeitures ...	28,116	30,000	37,000	28,000	Actuals included under Presidency Police. The estimate for 1899-1900 included estimated recoveries from Municipalities of the cost of Police force sanctioned for employment on plague duty, which have been credited to XXV. Miscellaneous.
Superannuation Receipts ...	111	4,000	—	4,000	
Cash receipts under the Arms Act ...	12,186	61,000	8,000	12,000	
Miscellaneous ...					
<b>Total ...</b>	<b>2,43,006</b>	<b>2,68,000</b>	<b>2,19,000</b>	<b>2,11,000</b>	

*XVIII.—Marine—*

Sale-proceeds of vessels and stores	891	2,000	2,000	2,000	The receipts continue to increase yearly.
Registration and other fees ...	48,756	40,000	52,000	55,000	
Pilotage Receipts { Calcutta ...	10,03,328	9,74,000	10,01,000	10,30,000	} Estimates based on past actuals. These receipts are of fluctuating character.
{ Chittagong ...	13,542	10,000		16,000	
Lead money of Volunteers ...	3,616	4,000		4,000	
<b>Total ...</b>	<b>16,70,168</b>	<b>16,40,000</b>	<b>10,55,000</b>	<b>10,77,000</b>	
<i>Miscellaneous.</i>					
Deductions for mess-money ...	11,479	12,000	11,500	12,000	
Contribution to life-boat establishment, Goalundo	160	200	200	200	
Marine survey ...	31,637	34,000	35,000	34,000	
Other items ...	8,374	8,000	8,300	8,000	
<b>Total Miscellaneous ...</b>	<b>51,650</b>	<b>50,000</b>	<b>55,000</b>	<b>55,000</b>	
<b>Total ...</b>	<b>11,21,808</b>	<b>11,60,000</b>	<b>11,10,000</b>	<b>11,32,000</b>	



## XIX.—Education—

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Fees, Government Colleges ...	1,88,653	2,13,000	2,61,000	2,13,000	Estimates based on past actuals.
{ General ...					
{ Professional ...	23,599	48,000		50,000	
Fees, Schools, General ...	3,77,584	3,40,000	3,90,000	3,72,000	
{ Schools, Special ...	13,45	15,000		16,000	
Contributions from Native States, private persons and municipalities ...	8,115	11,000	12,000	9,500	
Income from endowments ...	3,688	4,000	2,000	4,500	
Miscellaneous ...	50,638	36,000	25,000	35,000	
Total ...	6,65,023	6,64,000	6,90,000	7,00,000	

## XX.—Medical—

Medical College Fees ...	47,411	50,000	54,000	49,000	Increase due to higher rates sanctioned for paying patients. Estimate based on actuals.
Hospital receipts ...	91,512	90,000	97,000	95,000	
Lunatic Asylum Receipts ...	10,404	27,000	10,000	12,000	
Medicines sold by Civil Surgeons ...	298	500	.....	.....	
Contributions ...	8,817	37,000	37,000	40,000	
Miscellaneous ...	3,291	5,500	4,000	5,000	
Total ...	1,61,733	2,10,000	2,02,000	2,01,000	

## XXI.—Scientific and other Minor Departments—

Botanic and other Public Garden receipts ...	4,900	5,100	11,000	11,500	Increased receipts are expected from the sale of stones in the Birch Hill Park.
Veterinary and stallion receipts ...	11,807	9,900	10,000	11,000	
Cinchona plantation ...	1,58,360	1,50,000	1,45,000	1,50,000	Compared with the actuals the decrease is due to the restriction of the sale of quinine to Bengal, Punjab and Assam only.
Receipts on account of experimental cultivation ...	192	2,000	.....	1,500	
Emigration fees ...	19,959	20,000	25,000	25,000	
Examination fees ...	4,813	5,000	5,000	5,000	
Miscellaneous ...	1,019	.....	.....	.....	
Total ...	2,00,990	1,92,000	1,96,000	2,04,000	

## XXII.—Superannuations—

Family subscriptions of Native members of the Covenanted Civil Service ...	1,620	2,000	2,000	2,000	Estimates based on actuals.
Contributions for Pensions and Gratuities—	10,399	5,000	52,000	13,000	
Of officers lent to Municipalities or Corporations	35,886	41,000		34,000	
Of officers lent to Foreign Service	6,095	6,000	8,000	5,000	
Of persons employed by the Court of Wards	8,773	8,000	8,000	9,000	
Deductions for Marine Pension Fund	333	.....	.....	.....	
Refunds of Gratuities ...	63,106	62,000	62,000	63,000	

## XXIII.—Stationery and Printing—

Stationery receipts ...	9,387	10,000	10,000	10,000	Estimates based on actuals.
Sale of Gazettes and other publications ...	95,874	95,000	1,06,000	1,01,000	
Other press receipts ...	55,356	52,000	60,000	65,000	
Total ...	1,60,617	1,57,000	1,76,000	1,66,000	

## XXV.—Miscellaneous—

Unclaimed deposits ...	5,26,743	4,10,000	4,15,000	4,20,000	Estimate based on actuals of past three years.
Treasure-trove ...	51	.....	.....	12,000	
Sale-proceeds of Durbar presents ...	31,573	11,000	11,000	45,000	Estimate based on the actuals of 1897-98 and 1898-99. The actuals of 1898-99 included recoveries of plague charges from municipalities. Estimate based on the actuals of past two years.
Sale of old stores and materials ...	56,675	45,000	49,000	5,000	
Sale of land and houses ...	4,864	8,000	3,000	58,000	
Fees for Government audits ...	58,096	68,000	56,000	52,000	
Contributions ...	1,30,550	24,000	44,000	22,000	
Rents ...	21,402	23,000	20,000	10,000	
Miscellaneous fees, fines, and forfeitures ...	7,415	18,000	7,000	80,000	
Miscellaneous ...	77,950	80,000	82,000	7,04,000	
Total ...	9,15,319	6,87,000	6,87,000	7,04,000	

## XXIX.—Irrigation.—Major Works—(Direct Receipts).

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Orissa Canals ... ..	4,00,554	4,70,000	4,50,000	4,00,000	
Midnapore Canal ... ..	2,33,772	2,35,000	2,60,000	2,02,000	
Hijili Tidal Canal ... ..	75,286	70,000	60,000	63,000	
Sone Canals ... ..	10,75,265	9,25,000	10,30,000	10,54,000	
Total ... ..	18,53,877	17,01,000	18,00,000	17,18,000	

## XXX.—Minor Works and Navigation in charge of the Public Works Department—

<i>Irrigation and Navigation Works.</i>					
Works for which Capital and Revenue accounts are kept—					
Saran Canal ... ..	4,992	7,000	3,000	900	
Calcutta and Eastern Canals ... ..	4,99,774	4,43,000	4,40,500	4,32,100	
Orissa Coast Canal ... ..	75,036	60,000	50,000	52,000	
Total ... ..	4,92,802	5,05,000	4,93,500	4,85,000	
Works for which only Revenue accounts are kept—					
Nadia rivers ... ..	93,426	1,12,700	1,10,100	1,10,100	
Gaighatta and Buxi Khals ... ..	4,500	4,600	4,600	4,100	
Total ... ..	93,926	1,17,300	1,14,700	1,14,200	
Works for which neither Capital nor Revenue accounts are kept—					
Eden Canal ... ..	28,223	30,500	28,500	30,500	
Tear Canal ... ..	120	100	100	100	
Total ... ..	28,045	30,600	28,600	30,600	
Total Irrigation and Navigation Works ... ..	6,12,773	6,53,500	6,42,800	6,29,800	
<i>Agricultural Works.</i>					
Works for which neither Capital nor Revenue accounts are kept—					
Government embankments ... ..	7,966	5,500	7,000	6,000	
Takari embankments under contract ... ..	4,504	4,500	4,300	3,200	
Total Agricultural Works ... ..	12,470	9,500	11,300	9,200	
GRAND TOTAL ... ..	6,25,243	6,63,000	6,54,000	6,39,000	

## XXX.—Minor Works and Navigation in charge of the Civil Department—

Recoveries on account of lands benefited by embankments ... ..	1,00,904	1,04,000	1,03,000	1,03,000	The fixed annual demand is Rs. 1,03,000. Estimate based on annual average demand.
Recoveries on account of capitalized maintenance charges of the Rajapur drainage ... ..	13,514	24,000	17,000	17,000	
Miscellaneous receipts— Dankuni Canal ... ..	4,431	8,000	6,000	6,000	Estimate based on actuals.
Howrah drainage ... ..					
Rajapur drainage ... ..					
Total ... ..	1,27,849	1,36,000	1,26,000	1,26,000	

## XXXII.—Civil Works in charge of the Public Works Department—

Total gross receipts ... ..	2,06,426	1,91,000	1,93,900	1,73,000	Less profits expected from the Darjeeling-Himalayan Railway owing to the heavy cyclone damages to the line and consequent falling off in the traffic receipts.
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## XXXII.—Civil Works in charge of the Civil Department—

Tolls on ferries ... ..	2,76,727	2,70,000	2,52,000	2,75,000	The increased estimate is framed by the local officers with reference to settlements made with farmers.
Cemetery receipts ... ..	2,255	1,000	8,000	2,000	
Staging bungalows ... ..	12,976	11,000	11,000	12,700	
Encamping ground ... ..	42	100	100	300	
Miscellaneous ... ..	217	.....	.....	.....	
Total ... ..	2,90,180	2,83,000	2,65,000	2,88,000	



## APPENDIX B.

*Bengal Provincial Expenditure in detail of minor heads.*

[The figures in columns 4 and 5 are those accepted by the Government of India.]

The remarks in column 6, except when otherwise specially explained, refer to differences between columns 3 and 5.

*1.—Refunds and Drawbacks—*

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Land Revenue (one-fourth) ... ..	13,133	15,000	16,000	15,000	
Stamps (three-fourths) ... ..	1,17,224	1,27,000	1,16,000	1,20,000	
Excise (one-half) ... ..	5,509	5,000	3,000	6,000	
Assessed Taxes (one-half) ... ..	11,502	12,000	11,000	13,000	
Forest (one-half) ... ..	488	1,000	1,000	7,000	Provision has been made in the estimate for 1900-1901 for payment of mesne profits to Rani Amriteswari Debi on account of drift timber.
Registration (one-half) ... ..	3,018	2,000	2,000	2,000	
Provincial Rates ... ..	34,549	14,000	27,000	18,000	There was a special payment of Rs. 14,000 made in 1898-99 to the Norham Estate in Darbhanga in respect of the revenue-free lands belonging to it.
Customs (other than Export and Import duty) ...	2,391	2,000	2,000	2,000	
Total ...	1,87,937	1,78,000	1,78,000	1,83,000	

*2.—Assignments and Compensations—*

Malikana ... ..	1,22,788	1,74,000	1,57,000	2,00,000	The full amount of claims was not paid in 1898-99. Larger arrears expected to be paid in 1900-1901.
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*3.—Land Revenue—*

Charges of District Administration ... ..	30,49,213	30,27,000	31,00,000	31,68,000	The increase in 1900-1901 is for larger provision under salaries and establishment for the creation of the 8th grade of Deputy Magistrates and Deputy Collectors, for a considerable increase in the higher grades of the Provincial Service, and for a provision of Rs. 25,000 for the reproduction of village maps of Orissa and Chittagong and also for certain thanawari maps.
Management of Government Estates ... ..	4,70,916	5,04,000	5,00,000	5,00,000	
Survey and Settlement ... ..	5,04,326	3,07,000	3,73,000	2,45,000	
Land Records and Agriculture ... ..	79,886	90,000	83,000	93,000	
Total ...	41,04,343	39,28,000	40,56,000	40,06,000	There were savings under salaries in 1898-99.

*6.—Stamps—*

Superintendence ... ..	78,338	79,000	83,000	86,000	The increase is partly for increments in salary of the Superintendent, but mainly for provision made for rent of godowns for the storage of stamp boxes.
Charges for the sale of general stamps ... ..	1,62,942	1,15,000	1,06,000	1,06,000	There has been a shrinkage in the sale of general stamps, which accounts for the surcharge.
Charges on sale of court-fee stamps ... ..	1,31,003	1,32,000	1,33,000	1,40,000	The charges under this head follow the receipts from the sale of court-fee stamps, which continue to develop.
Discount on plain paper ... ..	16,000	16,000	16,000	16,000	
Stamp paper supplied from Central Stores ... ..	3,09,352	3,50,000	3,18,000	3,29,000	
Total ...	6,38,227	6,92,000	6,60,000	6,77,000	
Provincial share (three-fourths) ... ..	4,78,669	5,19,000	4,95,000	5,08,000	

## 7.—Excise—

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
	Rs.	Rs.	Rs.	Rs.	
Superintendence ... ..	75,959	73,000	79,000	80,000	The increase is nominal being due to the adjustment under this head of the personal allowance of the Commissioner of Excise and Salt.
Presidency establishment ... ..	82,413	92,000	91,000	93,000	
District Executive establishment ... ..	3,81,988	3,93,000	3,83,000	3,88,000	Decrease under Supplies and Services and Contingencies.
Distilleries ... ..	1,39,197	1,42,000	1,37,000	1,40,000	
Total ... ..	6,79,557	7,00,000	6,90,000	7,01,000	
Provincial share (one-half) ... ..	3,39,778	3,50,000	3,45,000	3,51,000	

## 8.—Provincial Rates—

Collection of rates and cesses ... ..	25,732	26,500	1,08,000	1,04,000	Provision has been made for one-third of the actual cost of collecting both Public Works and Road cesses.
Valuation and revaluation ... ..	18,010	31,500	23,000	48,000	
Total ... ..	43,762	70,000	1,31,000	1,52,000	

## 9.—Customs—

CALCUTTA.					
Salaries ... ..	63,326	61,137	61,000	62,000	
Collector's Establishment ... ..	1,63,612	1,81,043	1,70,000	1,80,000	
Appraising Establishment ... ..	83,645	87,000	86,000	86,000	
Preventive Establishment ... ..	3,52,617	3,60,804	3,59,000	3,65,300	
Allowances ... ..	92,377	1,34,400	1,35,000	1,34,000	
Supplies and Services ... ..	21,201	24,000	21,000	20,700	
Contingencies ... ..	21,341	22,300	19,000	22,600	
Total Calcutta ... ..	7,44,311	8,81,700	8,51,000	8,86,700	
Balassore ... ..	6,587	7,000	7,000	7,000	
Chittagong ... ..	28,066	29,200	29,000	29,000	
Cuttack ... ..	7,514	7,800	8,000	8,000	
Dacca ... ..	700	700	1,000	700	
Puri ... ..	1,481	1,600	1,000	1,000	
Total ... ..	7,85,745	9,25,000	8,97,000	9,32,000	

## 10.—Assessed Taxes—

Calcutta establishment ... ..	61,631	67,805	60,000	68,837
District ditto ... ..	1,30,305	1,28,162	1,31,000	1,27,173
Total collection of Income-Tax ... ..	1,91,936	1,95,967	1,91,000	1,96,010
Provincial share (one-half) ... ..	95,968	97,983	95,500	98,005

## 11.—Forests—

A.—Conservancy and Works.					
I.—Timber and other produce removed from the forests by Government agency ... ..	15,375	14,500	34,100	21,000	Provision made for cutting and delivering sal sleepers.
II.—Timber and other produce removed from the forest by consumers or purchasers ... ..	56,009	62,800	50,200	63,900	
III.—Confiscated, drift and waif wood ... ..	1,914	3,000	2,300	2,300	
VI.—Live-stock, stores, tools and plant ... ..	14,372	25,800	21,000	29,500	
VII.—Communications and buildings ... ..	69,175	78,900	67,200	57,000	
VIII.—Demarcation, improvement and extension of forests ... ..	33,817	41,100	50,400	63,000	Provision made for survey in the Singhbhum Division.
IX.—Miscellaneous ... ..	5,079	3,500	15,000	3,700	
Total A—Conservancy and Works ... ..	1,87,331	2,31,000	2,50,000	2,63,000	
B.—Establishments.					
1.—Salaries ... ..	2,42,688	2,75,200	2,43,000	2,50,100	
II.—Travelling allowances ... ..	42,064	40,000	42,000	41,800	
III.—Contingencies ... ..	14,836	13,800	15,000	14,100	
Total B—Establishments ... ..	2,99,588	3,29,000	3,00,000	3,06,000	
GRAND TOTAL OF EXPENDITURE ... ..	4,86,919	5,60,000	5,50,000	5,69,000	
Provincial share (one-half) ... ..	2,43,459	2,80,000	2,75,000	2,84,500	



## 12.—Registration—

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
Superintendence ... ..	Rs. 54,008	Rs. 52,900	Rs. 53,000	Rs. 53,000	The estimate of charges for commission is based on the estimate of receipts.
District charges ... ..	8,45,529	8,75,100	8,27,000	8,56,000	
Total ... ..	8,99,537	9,28,000	8,80,000	9,09,000	
Provincial share (one-half) ... ..	4,49,769	4,64,000	4,40,000	4,54,000	

## 13.—Interest on Ordinary Debt—

Interest on Provincial advance and loan account ...	2,44,773	2,51,000	2,38,000	2,37,000	The estimate is based on the estimated mean outstanding balance of loans carrying interest at 3½ per cent. per annum.
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## 15.—Post Office—

Dak establishment ... ..	2,648	3,000	3,000	3,000	
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## 18.—General Administration—

Salary of Lieutenant-Governor ... ..	97,280	96,000	96,000	96,000	The estimate includes larger grant for supplies and services and contingencies.
Staff and household of Lieutenant-Governor ...	39,835	34,500	45,000	36,800	
Tour expenses ... ..	45,533	34,000	36,000	34,000	For increase in the pay of the Secretary.
Legislative Council ... ..	29,935	28,000	36,000	34,400	
Civil Secretariats ... ..	6,11,434	5,75,000	5,75,000	5,78,200	For increase in the grant for contingencies.
Board of Revenue Commissioners ... ..	2,79,234	2,84,000	2,84,000	2,78,000	The decrease is due partly to smaller provision under exchange compensation allowance, for smaller grant for the purchase of tents and for smaller grant for supplies and services of Commissioners' steamers.
Civil Offices of Account and Audit ... ..	6,02,430	5,88,500	5,90,000	5,83,600	
Total ... ..	17,62,287	16,95,000	17,25,000	17,05,000	The increase in 1900-1901 is due to a deduction of Rs. 27,470 against Rs. 39,000 for recoveries on account of audit fees.

## 19A.—Law and Justice—Courts of Law—

High Court ... ..	11,03,383	11,65,000	11,30,000	11,80,000	For increase of pay to the High Court Judges.
Law Officers ... ..	3,35,195	3,33,000	3,20,000	3,35,000	Decrease due to smaller grant for exchange compensation allowance and for temporary establishment.
Coroner's Court ... ..	7,672	8,000	8,000	8,000	
Presidency Magistrates, &c. ... ..	68,000	68,000	68,000	68,000	
Civil and Sessions Courts ... ..	46,98,034	47,70,000	46,96,000	47,62,000	
Courts of Small Causes ... ..	1,63,517	1,72,000	1,67,000	1,70,000	For increase in the number of Assistant Magistrates and the creation of the eighth grade of Deputy Collectors and increase in establishment and in the grant for travelling allowance.
Criminal Courts ... ..	24,69,625	24,63,000	24,95,000	25,56,000	
Feardship Examination Charges ... ..	16,011	20,000	18,000	16,000	Estimates based on actuals.
Refunds ... ..	74,697	80,000	73,000	75,000	
Total ... ..	89,33,506	90,74,000	89,75,000	91,70,000	

## 19B.—Jails—

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	
Jails—	Rs.	Rs.	Rs.	Rs.	
Superintendence .....	54,580	50,000	49,000	53,000	Reduction due to a modified proposal for improvement of warder service.
Establishments .....	4,96,920	5,27,000	5,00,000	5,17,000	
Dietary Charges .....	6,47,805	5,34,000	5,58,000	5,75,000	
Hospital Charges .....	83,478	80,000	72,000	73,000	
Clothing and Bedding of Prisoners .....	1,07,353	88,000	98,000	1,00,000	
Sanitation Charges .....	33,174	35,000	31,000	33,000	
Charges for moving Prisoners .....	47,464	54,000	48,000	50,000	
Miscellaneous Services and Supplies .....	1,15,194	1,15,000	1,19,000	1,17,000	
Allowances .....	9,553	8,000	8,000	9,000	
Contingent Charges .....	36,933	41,000	40,000	42,000	
Extraordinary Charges for Live-stock and Tools and Plant .....	25,500	21,000	24,000	24,000	
Charges for Police Custody .....	13,964	9,000	13,000	10,000	
Total Jails .....	10,56,736	15,62,000	15,60,000	16,03,000	
Jail Manufactures .....	7,01,418	8,78,000	7,80,000	7,65,000	
Refunds .....	1,140	1,000	—	1,000	
GRAND TOTAL .....	23,59,320	24,41,000	23,20,000	23,69,000	

## 20.—Police—

Presidency Police .....	7,75,384	8,19,000	7,65,000	8,20,000	Full provision made for the additional police force recently sanctioned by the Secretary of State.
Municipal Police .....	45,274	40,000	47,000	50,000	
Superintendence .....	1,06,420	1,58,000	1,54,000	1,58,000	
District Executive Force .....	47,23,637	48,12,000	46,90,000	48,48,000	Provision made for the gradual substitution of Sub-Inspectors for head-constables in accordance with the recommendation of the Police Commission.
Village Police .....	19,179	30,000	19,000	46,000	
Special Police .....	1,30,502	1,44,500	1,43,000	1,46,000	
Railway Police .....	1,36,078	1,37,000	1,37,000	1,54,500	Increased provision made with reference to opening of extensions of railways and for additional forces sanctioned.
Cattle-pounds .....	5,084	4,000	4,000	3,300	
Refunds .....	1,072	2,500	1,000	1,000	
Total .....	60,22,630	61,65,000	59,60,000	62,34,000	

## 21.—Marine—

Salaries and allowances of officers and men afloat .....	63,567	60,000	65,000	60,000	Estimate reduced on actuals.
Victualling of officers and men afloat .....	20,953	19,000	19,000	20,000	
Purchase of marine stores &c. ....	69,010	20,000	78,000	80,000	
Purchase and hire of ships and vessels .....	7,117	10,000	10,000	15,000	
Piracy, pilot establishments and vessels .....	6,16,311	6,18,000	6,16,000	6,18,000	
Marine establishments .....	82,309	83,500	81,000	84,000	
Subsidies to steam-boat companies .....	20,000	20,000	20,000	20,000	
Miscellaneous .....	28,405	40,500	31,000	48,000	
State Yacht establishment .....	4,547	5,700	5,400	5,700	
Light-house and light-ships .....	12,000	—	—	—	
Refunds .....	1,030	1,300	3,000	1,300	
Total .....	9,34,317	9,66,000	9,31,000	9,61,000	

## 22.—Education—

Direction .....	67,073	62,000	62,000	65,000	Charges under Eden Hindu and Elliott Madrasa Hostels are shown here instead of under Miscellaneous as in 1899-1900. There is a reduction of Rs. 28,000 under Salaries and Supplies, &c., of Arts Colleges.
Inspection .....	3,72,134	3,75,000	3,71,000	3,78,000	
Government Colleges, General .....	4,94,733	5,15,000	4,75,000	5,30,000	
Ditto Professional .....	1,12,507	2,15,000	1,90,000	2,12,000	The increase is due mainly to the increased provision made for the new Training College for teachers in connection with the Kurnool Boarding School and to meet the increased charges of the Kurnool Victoria school.
Government Schools, General .....	5,06,630	5,40,000	5,35,000	5,62,000	
Ditto Special .....	1,76,619	1,93,000	1,78,000	1,68,000	
Grants-in-aid .....	4,16,072	5,10,000	5,22,000	5,40,000	Larger provision made on account of grants for primary schools for increased rewards to female native pupils of certain Calcutta nursing schools for passing examinations and for increased grant for Social Education.
Scholarships .....	1,23,916	2,00,000	2,00,000	2,50,000	
Miscellaneous .....	89,996	1,32,000	1,00,000	78,000	
Refunds .....	1,000	1,000	1,000	1,000	The decrease is due to provision for charges of the Eden Hindu Hostel and the Elliott Madrasa Hostel being made under Arts Colleges.
Total .....	27,80,600	29,47,000	28,50,000	29,80,000	



## 24.—Medical—

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
Medical Establishment	Rs. 6,39,947	Rs. 6,77,700	Rs. 6,73,000	Rs. 7,12,000	The increase is partly due to the amalgamation of the office of the Sanitary Commissioner with that of the Inspector-General of Civil Hospitals, in consequence of which the provision for the former has been included here and partly for the increase under District Medical Officers.
Hospitals and Dispensaries	4,80,776	5,33,800	4,62,000	5,36,700	
Sanitation and Vaccination	1,85,013	1,96,500	1,78,000	1,80,600	Increased provision for charges for medical stores for the Medical College, for beds, bedding and instruments for the General and Campbell Hospitals, and for diet of patients.
Grants for medical purposes	2,34,832	62,000	5,55,000	3,00,000	Decrease due to the amalgamation of the office of the Sanitary Commissioner with that of Inspector-General of Civil Hospitals.
Medical Schools and Colleges	2,92,189	3,17,000	2,98,000	3,14,000	Larger grant for the charges in connection with the prevention of plague
Lunatic Asylums	1,17,668	1,30,000	1,16,000	1,33,000	Increased provision under contingencies.
Special Hospital	13,106	15,000	13,000	14,700	Increase due to larger provision for Chemical Examiner's pay due to increments drawn under the revised scale of salary sanctioned by the Government of India.
Chemical Examiner	25,051	31,000	27,000	33,000	
Refunds	1,215	2,000	2,000	2,000	
Total	19,58,897	19,65,000	23,24,000	22,26,000	

## 25.—Political—

Entertainment of Envoys and Chiefs ...	1,419	2,000	2,000	2,000	The charges were exceptionally high in 1898-99.
Darbar presents and allowances to Vakils, &c. ...	33,189	17,000	17,000	16,000	
Miscellaneous	5,333	2,000	2,000	2,000	
Total	39,941	21,000	21,000	20,000	

## 26.—Scientific and other Minor Departments—

Provincial Museums	16,630	23,000	19,000	18,600	Decrease due to no provision being made for regrant of savings.
Imperial Institute	246	500	500	500	
Donations to Scientific Societies	10,000	14,000	8,000	8,000	Rs. 6,000 for grant to Agri-Horticultural Society provided for under Public Gardens. Includes a provision of Rs. 5,000 for grant to the Indian Tea Association.
Experimental cultivation	9,688	9,500	8,000	13,500	
Cinchona Plantation	1,24,698	1,60,200	1,60,000	1,67,000	Increased grant to Birch Hill Park as there is corresponding increase in receipts and for the provision of Rs. 6,000 for grant to Agri-Horticultural Society.
Public Exhibitions and Fairs	2,222	2,000	2,000	2,000	
Veterinary and Stallion Charges	37,750	39,000	39,000	40,000	The posts have been abolished with effect from 1st January 1900.
Botanical and other Public Gardens	1,20,169	1,18,000	1,26,000	1,30,600	
Emigration	22,996	25,600	26,000	26,000	
Inspector of Factories	26,415	24,400	20,000	25,000	
Census	1,216	1,500	2,000	1,500	
Registration of Railway Traffic	7,593	7,500	8,000	8,300	
Registration of River-borne Traffic	4,869	5,000	5,000	5,500	
Provincial Statistics	16,317	17,400	17,000	17,000	
Examinations	5,426	6,600	6,000	5,500	
Inspectors of Explosives	2,562	2,300	2,000	.....	
Miscellaneous	1,628	2,000	2,000	1,500	
Refunds	500	600	1,000	500	
Total	4,11,374	4,67,000	4,60,000	4,71,000	

29.—*Superannuations*—

HEADS.	Actuals 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
Superannuation and retired allowances	Rs. 20,84,384	Rs. 21,52,000	Rs. 21,52,000	Rs. 22,29,000	Increased provision made in view of the gradual annual increase in the past years.
Compassionate allowances	13,674	22,000	14,000	15,000	
Gratuities	35,053	40,000	36,000	40,000	
Marine Department Pensions	5,668	7,000	6,000	7,000	
Refunds	4,709	.....	.....	.....	
Total	21,44,088	22,30,000	22,08,000	23,00,000	

30.—*Stationery and Printing*—

Stationery Office at the Presidency	1,54,444	1,58,000	1,65,000	1,65,000	Provision has been made for the reorganization of the Superintendent's office.
Ditto purchased in the country	62,603	62,000	62,000	62,000	
Government Presses	3,70,148	3,50,000	3,50,000	3,56,000	Larger provision made for Supplies and Services and Contingencies.
Printing at private Presses	5,390	6,000	1,000	5,000	
Stationery supplied from Central Stores	6,30,739	5,60,000	5,98,000	6,25,000	The increase is based on the actuals of 1898-99.
Refunds	785	1,000	1,000	1,000	
Total	12,14,129	11,46,000	11,86,000	12,45,000	

32.—*Miscellaneous*—

Travelling allowances to officers attending examinations	2,124	3,000	2,000	3,000	Includes a provision of Rs. 14,000 for grant to the sanas hospital promised in 1898 to meet land acquisition and other charges in connection with the new hospital buildings.
Rewards for proficiency in Oriental languages, and allowance to Language Examination Committee...	2,000	6,000	5,000	5,000	
Cost of books and publications	618	1,000	1,000	1,000	
Donations for charitable purposes	88,403	1,00,000	1,00,000	1,17,000	
Charges on account of European vagrants	6,316	7,000	6,000	7,000	
Rewards for destruction of wild animals	13,072	16,000	12,000	15,000	Provision made for the maintenance of telegraph lines from Cuttack to Angul through Dhenkanal and from Baroon to Daltonganj.
Fetty establishments	33,800	30,000	28,000	36,000	
Special Commissions of Enquiry	4,746	5,000	4,000	5,000	
Irrecoverable temporary loans written off	1,838	3,000	.....	3,000	
Rents, Rates, and Taxes	22,594	28,000	22,000	32,000	
Contributions	1,344	15,000	15,000	18,400	
Miscellaneous and unforeseen charges	1,340	6,000	3,000	6,000	
Miscellaneous refunds	2,879	16,000	12,000	12,000	
Total	1,29,116	2,50,000	2,36,000	2,61,000	

42.—*Irrigation—Major Works—(Working Expenses)*—

Orissa Canals	4,61,298	4,40,000	4,50,480	4,37,000	
Midnapore Canal	2,09,703	2,09,000	2,09,374	2,38,000	
Hijili Tidal Canal	40,536	55,000	41,400	50,000	
Sone Canals	5,50,480	6,12,000	6,94,047	6,06,000	
Total	13,43,316	13,80,000	13,76,000	13,31,000	

42.—*Irrigation—Major Works—(Interest on Debt)*—

Orissa Projects	10,39,190	10,32,500	10,23,000	10,23,000	
Midnapore Canal	3,79,503	3,30,500	3,30,500	3,30,500	
Hijili Tidal Canal	71,420	72,000	72,000	72,000	
Sone Projects	10,32,364	10,31,000	10,30,500	10,30,500	
Total	24,56,067	24,56,000	24,56,000	24,56,000	



## 43.—Minor Works and Navigation in charge of the Public Works Department—

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
<b>PROVINCIAL.</b>					
<b>IRRIGATION AND NAVIGATION WORKS.</b>					
<i>Works for which Capital and Revenue accounts are kept.</i>					
<b>CAPITAL.</b>					
<i>Works in Progress.</i>					
Calcutta and Eastern Canals ... ..	61,993	.....	8,600	1,86,750	
Orissa Coast Canal ... ..	14,838	.....	(—) 53,032	.....	
Orissa Canals ... ..	90,031	59,740	43,750	62,250	
Damodar Canals ... ..	—1,200	.....	.....	.....	
Sone Canals ... ..	15,514	18,650	19,742	18,650	
Bagmati Canals ... ..	—14	.....	8,000	.....	
Midnapore Canal ... ..	.....	.....	.....	.....	
<b>Total Capital</b> ... ..	<b>1,84,162</b>	<b>78,390</b>	<b>27,000</b>	<b>2,67,650</b>	
<b>REVENUE.</b>					
Orissa Coast Canal ... ..	80,763	1,23,000	1,21,130	95,000	
Calcutta and Eastern Canals ... ..	2,67,306	2,48,200	2,03,200	2,47,500	
Saran Canals ... ..	1,233	600	1,100	1,075	
<b>Total Revenue</b> ... ..	<b>3,49,302</b>	<b>3,71,800</b>	<b>3,85,430</b>	<b>3,43,575</b>	
<b>Total Works for which Capital and Revenue accounts are kept</b> ... ..	<b>5,33,527</b>	<b>4,50,190</b>	<b>4,12,430</b>	<b>6,11,175</b>	
<i>Works for which only Revenue accounts are kept.</i>					
<b>WORKS IN PROGRESS.</b>					
Nadia rivers ... ..	93,570	1,35,000	1,17,023	1,12,150	
Gaighatta and Buxi khals ... ..	417	1,300	387	625	
<b>Total Works for which only Revenue accounts are kept</b> ... ..	<b>93,987</b>	<b>1,36,300</b>	<b>1,17,410</b>	<b>1,12,775</b>	
<i>Works for which neither Capital nor Revenue accounts are kept.</i>					
<b>WORKS IN PROGRESS.</b>					
Survey of Brahmaputra River ... ..	532	.....	.....	.....	
Eden Canal ... ..	39,580	36,000	37,169	43,750	
Tour Canal ... ..	9,535	.....	.....	.....	
Madhuban Canal ... ..	17,756	.....	.....	.....	
<b>Total Works for which neither Capital nor Revenue accounts are kept</b> ... ..	<b>67,403</b>	<b>36,000</b>	<b>37,169</b>	<b>43,750</b>	
<b>Total Irrigation and Navigation Works</b> ... ..	<b>6,04,917</b>	<b>6,22,490</b>	<b>5,67,069</b>	<b>7,67,700</b>	
<b>AGRICULTURAL AND DRAINAGE WORKS.</b>					
<i>Works for which neither Capital nor Revenue accounts are kept.</i>					
<b>WORKS IN PROGRESS.</b>					
Government embankments and works for the improvement of Government and escheated estates } Manspore takavi embankments under contract ... ..	6,04,553	8,61,510	7,12,931	7,35,300	
Gandak Takavi embankments under contract ... ..	.....	.....	.....	.....	
Works in charge of Civil Officers ... ..	.....	.....	.....	.....	
<b>Total Agricultural</b> ... ..	<b>6,04,553</b>	<b>8,61,510</b>	<b>7,12,931</b>	<b>7,35,300</b>	
<b>GRAND TOTAL</b> ... ..	<b>13,89,470</b>	<b>14,84,000</b>	<b>12,80,000</b>	<b>15,03,000</b>	

## 43.—Minor Works and Navigation in charge of Civil Department—

Embankments under the contract system—				
Establishments ... ..	1,472	1,452	1,452	
Contingencies ... ..	48	48	48	
Maintenance charges of the Howrah and Rajapore drainages ... ..	3,639	3,852	3,852	
Compensation for dearness of provisions ... ..	9	.....	.....	
Travelling allowance ... ..	251	.....	.....	
Refund ... ..	2	.....	.....	
<b>Add or Deduct for rounding</b> ... ..		648	648	
<b>Total</b> ... ..	<b>5,421</b>	<b>6,000</b>	<b>6,000</b>	<b>6,000</b>

## 45.—Civil Works in charge of the Public Works Department—

Original Works	15,26,347	12,70,000	18,80,000	11,68,751	Increased provision for repairs to damages done by cyclone in Darjeeling.
Repairs	8,82,992	11,90,000	14,73,000	16,20,870	
Establishment	8,33,603	8,73,616	7,03,500	9,30,379	
Tools and Plant	21,051	25,394	23,500	3,000	
Suspense	17,307	.....	.....	.....	
<b>Total</b> ... ..	<b>32,58,799</b>	<b>33,59,000</b>	<b>39,40,000</b>	<b>37,50,000</b>	

## 45.—Civil Works in charge of the Civil Department—

HEADS.	Actuals, 1898-99.	1899-1900.		Estimate, 1900-1901.	REMARKS.
		Budget.	Revised.		
1	2	3	4	5	6
Ferry charges ... ..	Rs. 4,086	Rs. 7,520	Rs. 30,000	Rs. 8,056	Larger grant for supplies and services. Increase based on actuals.
Refunds of ferry tolls ... ..	47,667	31,000		35,000	
Contributions to Excluded Local Funds and Municipalities, &c. ... ..	28,528	50,000	1,15,000	90,000	Provision made for larger grants to municipalities for the construction of hospital buildings.
South Lushai Hills establishment ... ..	45				
Staging bungalows ... ..	9,24	10,100	10,000	11,125	
Encamping grounds ... ..	894	694	1,000	1,113	
Add or deduct for rounding ... ..		686		194	
Total ... ..	90,444	1,00,000	1,65,000	1,46,000	
Special grant ... ..		14,00,000			
		15,00,000			

## BILL TO AMEND BENGAL ACT I OF 1869 (CRUELTY TO ANIMALS).

The Hon'ble MR. SLACK moved that the Report of the Select Committee on the Bill to amend Bengal Act I of 1869 (*an Act for the prevention of cruelty to animals*) be taken into consideration, and that the clauses of the Bill be considered in the form recommended by the Select Committee. He said:—

“When introducing the Bill, I fully explained the necessity for legislation, and the very limited object for which it was resorted to. Since the publication of the Bill there has not been, so far as I am aware, any sign of opposition or hostile criticism to its provisions, which shows that, in the opinion of the public, it satisfies a long-felt want. The Report of the Select Committee, by whom the recommendations of the Society for the Prevention of Cruelty to Animals were most carefully considered, has been for some time in the hands of Hon'ble Members, and to the changes and additions therein proposed, which will, I think, make the amending Act of much greater benefit than it would have been in the form it was introduced, the sanction of the Government of India has been received. The reasons for these alterations and additions are fully set forth in the Report, and as I cannot add to them, it would be needlessly taking up the time of the Council for me to repeat them. I would now move that the clauses of the Bill be considered in the form recommended by the Select Committee.”

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 1, for the proposed definition of the word “animal,” the following be substituted, namely:—

‘In this Act, the word “animal” means any organised or living being other than man, either domestic or captured, and endowed with sensation and power of voluntary motion.’

He said:—“The definition which it is proposed to repeal runs as follows:—

‘The word “animal” shall be taken to mean any domestic or tamed quadruped, or any domestic or tamed bird.’

“That is a definition in the proper sense of the term, that is to say, it tends to explain what is meant by the word ‘animal’ in the Act. This is intended to be supplanted by what is called a definition taken from Act XI of 1890. That definition stands thus—‘In this Act the word *animal* means any domestic or captured animal.’ This definition, if it can at all be called a definition, has this particular quality, that it does not at all define what an animal is. It purports to define it, but simply says that the term ‘animal’ means an animal, domestic or captured. It is pointed out in the Report of the Select Committee that there was a discussion on this definition in the well-known case of *Tulsi Bewa* or *Soshi Bewa*, where the question was raised whether a crab came within the definition of ‘animal.’ There the discussion arose, not on the Bengal Act which the Council is now amending, but on the Act of the Government of India from which we propose to draw our definition.



In that case the question was raised whether a crab was an animal at all. It was argued elaborately that a crab was not an animal at all, because it was not proved to possess mind or intelligence. One of the learned Judges who heard the case gave a definition which I have adopted. I am bound to mention that it has been pointed out to me by the Hon'ble Member in charge of the Bill that the definition given by the High Court was liable to objection on the ground that it was too wide, that, in fact, it might be made applicable to dead animals, and therefore I am quite prepared to omit the words 'organised or' from the proposed definition. But, even to the definition so modified, my hon'ble friend may, perhaps, object that it is too wide, and would include trifling cases of which I shall give one illustration. A man wants to fish; he takes a worm, hooks it and goes to fish; he may be brought up under the Act, but the answer is that even without this definition he would be liable. If a worm is an animal, a captured worm would be an animal within the meaning of the Act. If the words 'organised or' are omitted, my definition will not be wider than that contained in the Bill. On the other hand this definition has the merit of being a real definition. Therefore I move with your permission that the words 'organised or' be omitted, and that the motion as thus amended be put."

The Hon'ble MR. SLACK said :—" I am unable to accept this definition. It must either be taken as a whole, or not at all. It is put forward with the authority of a definition laid down by the Hon'ble the Judges of the High Court, but it seems to me inadvisable, even with the omission of the words 'organised or,' to introduce a definition so wide as this, as it would enable cases to be brought which possibly would place the members of the Society for the Prevention of Cruelty to Animals in an undesirable position. The definition in the Bill may not be so good as it might be, but I am unable to give one that is more perfect."

The Hon'ble BABU SURENDRANATH BANERJEE said :—" This is more or less a matter for lawyers, but still more or less it is one on which a person may have an opinion of his own. We have before us practically three definitions: first there is the definition of the Government of India Act which is embodied in the Bill; then there is the definition of the learned Judges of the High Court which my hon'ble friend, the mover of the amendment, has followed; then there is my friend's own definition, because he now modifies the definition of the High Court. We have therefore the definition of the Government of India Act which my friend objects is too wide, and we have the definition of the High Court which my friend wants us to accept, but which he modifies now. The question is whether we shall accept the definition of the High Court or the definition in the Government of India Act. With reference to the former I have this objection to offer. The High Court Judges say that the word 'animal' is not defined in the definition of the Government of India Act; in the definition given by the High Court, however, the word 'animal' is defined. My hon'ble friend, who is so thoroughly conversant with law and logic, must be acquainted with this fact, that there are things sometimes so absolutely simple as to defy the shrewdest efforts of definers. The word 'animal' is one of these. Then my friend says that the word 'animal,' according to the definition of the Government of India Act, does not include a crab, because the High Court Judges assumed that a crab had no mind. How could any body say that a crab has no mind? Some body may hold that a crab does possess a mind, although it may not give any outward manifestation of it. It certainly understands, it moves and acts under certain instincts. It is able to feel, and that is an outward manifestation of a sentient mind. The ground therefore upon which the definition of the High Court is based does not commend itself to my mind; and, even if we accept that definition, the ground is cut away from under our feet, because my hon'ble friend does not accept it in its entirety. Then are we to accept the definition of the Government of India? I am not always a follower of the Government of India, but in a matter like this, where no contentious principle is involved, and in which the Government of India must have consulted its expert advisers, I think we should be wise to accept the definition of the Government of India in preference to the very wide definition of my hon'ble friend. These are the grounds upon which I shall vote against the amendment."

The Hon'ble MR. WOODROFFE said :—"I think the amendment is one which ought not to receive the acceptance of the Council. It is, I think desirable that the definition contained in the Act for the Prevention of Cruelty to Animals of the Government of India should be retained. It would, I fear, give rise to serious difficulty if we had a definition in our Act different from that in the Act of the Government of India, an Act which may at any moment be extended in all or some of its parts to these Provinces."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA in reply said :—"There seems to be some misconception in this matter. We legislate and the High Court interprets. The Government of India has given a definition of 'animal' in Act XI of 1890 and the High Court has interpreted it; therefore it cannot be said that the High Court have given a new definition. As long as that interpretation has not been set aside it must be accepted as good law. On the other hand if the interpretation of the High Court goes too far, then we are entitled to modify it. I understand the Hon'ble Member in charge of the Bill to say that it does go too far; therefore, I have asked permission to modify my amendment, and the definition proposed by me in its restricted form ought to prove acceptable to him."

The Hon'ble BABU BOIKANTA NATH SEN suggested the amending of the definition in the Bill by the substitution of the word "includes" for the word "means"; so that it will run:—the word "animal" *includes* any domestic or captured animal.

The Hon'ble MR. BAKER remarked that that would include other animals besides those that are domestic or captured. The object of the Act is to confine it to these two classes of animals only.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA's motion was then put without the words "organised or," and was lost.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, by leave of the Council, withdrew the motion standing in his name that in section 2, after section 5B, the following section be inserted, namely :—

"5C. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both:  
Penalty for killing animals with unnecessary cruelty anywhere.  
 Provided that nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA also, by leave of the Council, withdrew the motion standing in his name that in section 2, after section 5C, the following section be inserted, namely :—

"5D. (1) If a Magistrate of the first class, Subdivisional Magistrate, Commissioner of Police or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 5, section 5A or section 5C is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorize any police officer above the rank of a constable (named in such warrant) to enter and search the place.  
Search-warrants.  
 (2) The provisions of the Code of Criminal Procedure, 1898, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub-section (1)."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA moved that in section 2, after section 5D, the following section be inserted, namely :—

"5E. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence."  
Limitation of prosecutions.



He said:—

"This is taken from section 9 of Act XI of 1890 and the corresponding English Act, where the period of limitation is one month. I do not think such complaints ought to be brought into Court. Such things ought not to be allowed to hang over a man's head for months."

The Motion was put and agreed to.

The Hon'ble MR. SLACK moved that the Bill as amended be passed. He said:—

"I trust that under its provisions, which will now be made substantive law, the Society for the Prevention of Cruelty to Animals will be able to greatly ameliorate the sufferings of dumb animals."

The Motion was put and agreed to, and the Bill was then passed.

#### THE CALCUTTA MUNICIPAL BILL, 1900.

The Hon'ble MR. BAKER moved for leave to introduce a Bill to continue and validate the appointments of certain functionaries of the Corporation of Calcutta.

The Hon'ble BABU SURENDRANATH BANERJEE took a preliminary objection under Rule 32 of the Rules of the Council for the Conduct of Business which provided that no such motion shall be made until after a copy of the Statement of Objects and Reasons has been furnished to each Member. Any Member may object to the motion unless copies have been furnished to him at least seven days previously, and such objection shall prevail unless the President, in exercise of his discretion, allow the motion to be made. He had only that morning seen a copy of this Bill, and he had not had time to consider it, and having regard to the very important nature of the Act of which this Bill is an amendment, it appeared to him that it should not be brought before the Council in this hurried way.

The Hon'ble MR. BAKER said that under Rule 55 of the Rules the President for sufficient reasons, and whether upon the application of a Member or otherwise, may suspend any of the foregoing rules for a particular purpose.

The Hon'ble THE PRESIDENT asked whether after reading the Bill the Hon'ble Member thought there was any reasonable objection against proceeding with it?

The Hon'ble BABU SURENDRANATH BANERJEE said that it was a strain upon the constitution to proceed with the Bill now. He would like to have His Honour's ruling upon the objection which he had taken.

The Hon'ble THE PRESIDENT said:—"I am sorry that the Council has had to be troubled with the Bill which is unexpectedly before it. I was myself under the innocent belief—a belief which was shared by the Member in charge of the Bill which afterwards became the Calcutta Municipal Act—that matters of this kind were covered by the General Clauses Act which we passed last year. I was under the impression that one of the express reasons for which we passed the General Clauses Act was exactly to cover cases of this kind. In that belief we were supported by certain legal advisers at the time, and there is still a legal dispute whether the present Bill is or is not necessary. The final and decisive opinion in a legal matter of this kind is that which is furnished to us by our hon'ble colleague, the Advocate-General. By his opinion we must now be guided. But the Hon'ble Member who has made this protest is unable to say that the proposals made in this Bill are in any sense unreasonable. The Hon'ble Member is also aware that on no occasion at any time during the time I have had the honour of presiding in the Council have I hurried any measure of any kind whatever. The Bill we passed this morning is an instance that we have never hurried a measure. But this is legislation which is necessary to correct in the Calcutta Municipal Act—a mere technical

mistake, which took place innocently and is a mere legal informality. Under these circumstances, as it is necessary to give validity to the proceedings of the officers of the Calcutta Corporation, and in the absence of any reasonable objections on the part of the Hon'ble Member, I avail myself of the discretion given to me by the Rules, and declare that further notice is not necessary in this matter.

The Hon'ble MR. BAKER said:—"The Bill was circulated last night and is in the hands of Members. It is extremely brief, containing only two operative clauses, and is of a purely formal and technical character. It makes no change whatever in any substantive provision of the law, and its sole object is to overcome two technical legal difficulties which have within the last two or three days been brought to our notice.

"I will explain each of these separately. The first of them relates to the continuance of the appointments of the whole municipal establishment, from the Vice-Chairman downwards, who have been appointed under the old Act.

"In section 2 of the old Act of 1888, there is a clause which declares that among other things all appointments made under former Acts shall be deemed to have been made under the new Act. In section 2 of the Act passed last year there is a corresponding clause: but in that clause the words 'appointments made' are omitted. The reason for making this change was that by section 8 (c) of the Bengal General Clauses Act, passed last year, it was provided generally and once for all that the repeal of any enactment, unless a different intention appears, shall not 'affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed.' The Secretary of the Council, who is an expert draftsman, considered that this provision in the General Clauses Act saved all appointments made under the former Act, and that it was unnecessary (and therefore inexpedient) to refer to them in the special saving clause inserted in the new Municipal Act. He informs me that this view is consistently taken in the Acts of the Government of India, and that the practice is taken from the corresponding practice in England. This is manifestly a purely legal question, as to which non-lawyers are not qualified to express any opinion. The view was not challenged by any Member of the Select Committee or of the Council itself. It may be that the point was not noticed; but whatever the reason may be, the fact remains that no reference was made to the matter by any of the learned lawyers or unlearned laymen who took part in the discussions on the Bill.

"A few days ago, however,—last Monday in fact—my attention was called to an article in the *Reis and Rayyel*, in which, among other things, it was pointed out that the appointments of the municipal staff were not saved by the saving clause, and it was argued that their appointments would cease on the commencement of the new Act. It did not seem to me that there was much force in the arguments used, and the Secretary whom I consulted adhered to his former view that these appointments were saved by the General Clauses Act. To be on the safe side, however, I caused a reference to be made to the Advocate-General, and the Hon'ble Mr. Woodroffe gave it as his opinion that these appointments were not saved, that Government could appoint the Chairman and Deputy Chairman in advance of the new Act coming into force, but that as regards the Vice-Chairman and the rest of the Municipal officers and servants, the only way out of the difficulty was to pass a short Act to continue their appointments. I have the text of the opinion here, and will read it if desired; but that is the substance.

"As this was a very serious matter, Government thought it prudent to obtain a second legal opinion, and accordingly a reference was made to Sir Griffith Evans. That eminent lawyer concurred with the Advocate-General both as to the appointments not being saved and as to the remedy to be applied.

"In these circumstances, there was no course open to Government but to accept these opinions and to act on the advice given. The first operative section, section 2 of the Bill now before the Council, is designed to give effect to this view. It has been framed in consultation with the Advocate-General, and is in his opinion effective for the purpose.



"It is true that an Act of the Local Council has no validity until it is published with the consent of the Governor General, but the draft has been so framed that when the publication is made, it will take effect from the 1st April, i.e., from the commencement of the new Act. And steps are being taken to apply for the Viceroy's assent as quickly as possible, so that the transition period may be of the shortest duration.

"I need hardly dwell on the necessity of the measure. It is out of the question that the whole municipal machinery should be stopped, even for a day. It is impossible to stop the conservancy, the water-supply, the street lighting, and the watering and cleaning of the streets. The work must in any event go on as before, the establishments must remain at their posts and continue to work; and the present measure is intended to give them legal authority to do so.

"I now pass to the second of the two points with which the Bill deals. This relates to the appointments of Commissioners made by the Chamber of Commerce, the Trades Association, and the Port Trust. And in respect of this matter I must regretfully admit my personal responsibility; for the difficulty could have been got over without legislation if I had discovered it earlier. I only discovered it a few days ago, when I came to prepare the draft Notification gazetted these appointments of Commissioners, and it was then too late to remedy the omission, except by legislation. I am ready to accept whatever measure of blame attaches to this omission.

"The difficulty is this: Section 8 (3) of the new Act provides that the Local Government shall make rules to regulate the appointment of Commissioners by these three bodies, section 58 (1) limits the operation of these rules merely to the manner of convening the meetings at which they are to be chosen, and section 25 of the General Clauses Act saves all rules made under the former Act.

"Now, as the Council are aware, it was our intention to make no change in respect of these Commissioners, and in fact we did make no change beyond designating them 'appointed' instead of 'elected.' And I took it for granted that the appointments would be made under the old rules which, as I have explained, are saved by the General Clauses Act.

"But when I came to draft the Gazette Notification, I found that no rules had ever been framed under the Act of 1888. When that Act was passed, the Government decided that it was not necessary to frame rules, and they contented themselves with issuing certain instructions to the three commercial bodies for the conduct of their elections; and the elections have been conducted under those instructions ever since. I may mention that these instructions correspond very closely to the provisions of section 53 (1) of the new Act, to which I have already referred.

"The effect of the absence of any existing rules was that no valid appointments could be made by the three commercial bodies, until fresh rules had been made under section 8 (3) of the new Act.

"Had I discovered this defect sooner, it would have been open to Government, by section 24 of the General Clauses Act, to frame such rules at once, and in that case it would not have been necessary to legislate. But the defect only came to my knowledge a few days ago, when it was too late to follow this course. I very greatly regret that this should have been the case.

"We cannot delay the validating of these appointments, because until the commercial representatives are appointed, it would be certainly inexpedient and probably illegal to proceed to constitute the General Committee, and as that is the executive authority of the Municipality, it must be brought into existence with the least possible delay.

"On this point also the Advocate-General has been consulted, and he concurs both in the necessity for legislation and in the form of the measure.

"These are the objects of the Bill and the reasons why I regard it as of pressing urgency."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"After the remarks, which I have heard from the Hon'ble Member in charge of the Bill, I am bound to say that the tenour of those remarks disarms criticism and puts a complexion of a different character upon the matter, because the Hon'ble Member throws

in the General Clauses Act, does not appear, and I must say I agree with Sir Griffith Evans in his opinion that, if the Corporation continued working with the same officers as they had before the passing of the Act, without proper action being taken for their continuance, they would be in a very awkward position in the event of an application in a Court of Law. In spite of what has fallen from the Hon'ble Mr. O'dham, I must endorse what was said by the Hon'ble Babu Surendranath Banerjee with regard to the Calcutta Municipal Bill having been rushed through the Council in its final stages. We were kept here, day after day, in the worst period of the year, without regard to our humble protests and of the disadvantages under which we were placed, but Your Honour, with a most self-sacrificing disposition, was willing to undergo every discomfort in the most trying season of the year, in order that the Bill might be passed into law on the earliest opportunity. I failed, at the time, to see the necessity for the great urgency on account of which the Bill was pressed on, and events have only shown that there was really no real urgency. As for the necessity for the new law, one reason given was that the Corporation were incapable of meeting an emergency. But if we look at what was done at the outbreak of the plague, and the time before the Corporation was deprived of the help of some of its most active and efficient members by the resignation of twenty-eight Commissioners in a body, they will see good reason to think otherwise. Those Commissioners did good work and I missed them more than I can say in that body, and the work of the Corporation, as much as lay in the power of Commissioners to do, was well done. The places vacated by those who have resigned have been filled almost entirely by the nominees of the Government and from the class they have said they most desire. If the work before done was inefficient and unsatisfactory, in the present crisis of the plague I would have expected to see increased activity and a marked improvement, but as a matter of fact no steps are being taken to cope with the emergency. As far as the work of the Corporation is concerned, I cannot see what there was to induce the Government to hurry the Council to get this new Act passed.

"For my part I have always been most willing to give such help as I could before the event. In legislation, as I have said before, there are no rewards or punishments; there are consequences, and I do not think it wise not to readily accept any help in this Council that may be offered. I would much rather be of help before a Bill is passed than be in the position of a critic after a Bill is passed. With these observations I support the Bill."

The Motion was then put and agreed to.

The Hon'ble MR. BAKER applied to the President to suspend the Rules of business to admit of the Bill being passed at the present sitting.

The Hon'ble THE PRESIDENT having declared the Rules suspended—

The Hon'ble MR. BAKER introduced the Bill and moved that it be read in Council.

The Hon'ble THE PRESIDENT said:—"As the Hon'ble Member in charge of the Bill has said nothing in regard to one matter to which the Hon'ble Mr. Apcar referred, I desire on the part of the Government to explain to the Hon'ble Member that I am quite certain the Hon'ble Member in charge of the Bill had no intention whatever of deprecating offers of assistance from legal members of the Council in the discussion of the Calcutta Municipal Bill. On the contrary he, as well as I myself, appreciate to the full the very cordial assistance and the very valuable assistance we received from those Hon'ble Members. The only object the Hon'ble Mr. Baker, as well as I myself, had in referring to the absence of the detection of this flaw was to show that it furnishes some justification to the Government that even acute, intelligent legal gentlemen who gave their cordial assistance in this matter had failed to detect the flaw which has now been remedied."

The Motion was put and agreed to and the Bill was read accordingly.

The Hon'ble MR. BAKER also moved that the Bill be taken into consideration.



The Hon'ble MR. WOODROFFE said :—I desire to say a very few words on this motion, and it occurs to me that this is the proper time to make them. The Hon'ble Member in charge of the Bill seems to me to take too much blame to himself. The matter is one which might well have escaped attention, and I am consequently unable to appreciate the observation of the Hon'ble Member who spoke of the unenviable position of the Government. The Government of Bengal like any other Government in the world, is not infallible. I am glad to hear that the opinion which I ventured to give has been corroborated by a member of my profession whose valuable advice no man rates higher than I do, and I will only venture to observe, with reference to what fell from the Hon'ble Member in charge of the Bill in respect of the advice given by the Secretary, that the opinion I gave does not involve any criticism on the General Clauses Act. In considering the General Clauses Act, it is always necessary to remember that every one of the definitions given in that Act are subject to the qualification 'unless there be something repugnant in the subject or context,' and here there is that repugnancy in the subject and context. It appears to me that the Corporation which is now constituted is different from that which existed before. If it was the intention of the Government that matters should not be brought to a deadlock, that there was to be continuity of administration under the new constitution, then certainly in the case of the majority of officers, the only manner in which that result is attainable, is by the introduction and passing of this Bill. Furthermore it is to be observed that clause 25 of the General Clauses Act only speaks of Notifications issued under a repealed enactment, and I venture to think that by that is meant not Notifications that the appointments have been made by the Municipality, but Notifications operative *per se*. If they are operative by virtue of the Notification then they are well within the meaning of the General Clauses Act. It would I think be a very great misfortune if, owing to any mistaken view of the law, there should be brought about such a state of chaos as to some Members seem a matter of but little moment, and I can only express my satisfaction that the Government has seen fit to prevent its occurrence."

The Motion was put and agreed to.

The Hon'ble MR. BAKER also moved that the Bill be passed. He said:—

"After what has been said, especially by the learned Advocate-General, it is unnecessary for me to take up the time of the Council with any further remarks."

The Hon'ble MR. OLDHAM said:—"I shall take up only three minutes in reminding the Council of an instance very pertinent to the present matter, of how a legal flaw may remain undetected until the last moment. In the first Calcutta Municipal Act, and in the Act which superseded it, it was provided that the affairs of the town should be managed by a body called the Town Council and now called the General Committee. But it was only in September last that it was discovered that no provision existed enabling the Commissioners to fill up vacancies in that body as they occurred. By the recent resignation of 28 Commissioners the General Committee lost more than half its members and became almost paralyzed from the difficulty of obtaining a quorum. For that reason alone there was urgent necessity for amending the Municipal Act. I think this is an instance in point."

The Hon'ble MR. APCAR observed that what the Hon'ble Mr. Oldham had just mentioned as a flaw in the old Calcutta Municipal Act was discovered many years ago. The resignations of the members who left the General Committee were sent in some time after the decision was arrived at to proceed with the Bill so urgently.

The Motion was put and agreed to.

The Council was then adjourned to Saturday, the 7th April, 1900.

CALCUTTA;	}	C. E. GREY,
The 29th May, 1900.		Offg. Assistant Secretary to the Govt. of Bengal, Legislative Department.

*Abstract of the Proceedings of the Council of the Lieutenant-Governor of Bengal,  
assembled under the provisions of the Indian Councils Acts, 1861 and 1892.*

The Council met in the Council Chamber on Saturday, the 7th  
April, 1900.

**Present:**

The Hon'ble SIR JOHN WOODBURN, K.C.S.I., Lieutenant-Governor of Bengal,  
*presiding.*

The Hon'ble MR. W. B. OLDHAM, C.I.E.

The Hon'ble MR. J. A. BOURDILLON, C.S.I..

The Hon'ble MR. C. E. BUCKLAND, C.I.E.

The Hon'ble MR. F. A. SLACK.

The Hon'ble MR. E. N. BAKER.

The Hon'ble RAI DURGA GATI BANERJEA, BAHADUR, C.I.E.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY, BAHADUR, OF TAHIRPUR.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR.

The Hon'ble SAHIBZADA MAHOMED BAKHTYAR SHAH, C.I.E.

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA, M.A., D.L., F.R.A.S., F.R.S.E.

The Hon'ble BABU BOIKANTA NATH SEN.

The Hon'ble BABU SURENDRANATH BANERJEE.

The Hon'ble MR. H. ELWORTHY.



## QUESTIONS AND ANSWERS.

## PROCEEDINGS OF THE DEPUTY COMMISSIONER OF JALPAIGURI.

The Hon'ble BABU SURENDRANATH BANERJEE asked :—

“Has the attention of the Government been drawn to the proceedings of the Deputy Commissioner of Jalpaiguri, which have been published in the newspapers in connection with the enquiry into certain cases of bad livelihood under section 110 of the Criminal Procedure Code?”

“Is it the case that the Deputy Commissioner made over to Mr. Foster, Joint-Magistrate, several cases of bad livelihood, although the latter was not legally empowered by the Government to try these cases, and although there were two Deputy Magistrates at Jalpaiguri, who were empowered to try such cases?”

“Is it the case that, having made over these cases to the Joint-Magistrate, the Deputy Commissioner applied to the Government to vest the Joint-Magistrate with power to try such cases, and although the Government refused to vest the officer with this power, the cases were kept on the file of the Joint-Magistrate, who passed orders thereon, some of the prisoners being sent to jail on failing to find security; and that subsequently, when appeals were preferred against the order of the Joint-Magistrate, the Deputy Commissioner rejected the appeals, although he must have known that the orders of the Joint-Magistrate were illegal and passed without jurisdiction?”

“Is it the case that, as regards one of the prisoners who was too ill to appear in Court and was detained in *hajat*, the evidence was taken by the Joint-Magistrate, in his absence, and the order was passed against him in jail, that he appealed to the Deputy Commissioner against this order, that the appeal was rejected and the man died in jail?”

“Is it the case that the Judge called for the records in these cases, and that, subsequent thereto, the Deputy Commissioner drew up proceedings under section 124, Criminal Procedure Code, regarding the prisoners as no longer dangerous to the community, and that he released them, although only a short time ago he had rejected the appeals preferred by these prisoners.”

“If these proceedings have been brought to the notice of the Government, will the Government be pleased to state what orders, if any, the Government has passed to mark its disapproval of such proceedings?”

The Hon'ble Mr. BOURDILLON replied :—

“The attention of the Lieutenant-Governor has been drawn to this matter, and the Commissioner has been asked for a report. When this has been received and considered by the Lieutenant-Governor the questions of the Hon'ble Member will be answered.”

## FILLING UP OF VACANCY IN THE CALCUTTA COURT OF SMALL CAUSES.

The Hon'ble BABU BOIKANTA NATH SEN said :—

“A vacancy having occurred in the Calcutta Court of Small Causes by the elevation of Mr. Handley to the High Court, will the Government be pleased to take into consideration the recognised claims of the Provincial Judicial Service, for filling up the vacancy: and will the Government consider it proper and necessary to consult the High Court, before making the appointment?”

The Hon'ble Mr. BOURDILLON replied :—

“The Lieutenant-Governor is aware that members of the Subordinate Judicial Service are eligible for a seat in the Calcutta Court of Small Causes, and that they have been appointed to that Court from time to time. Their claims have not been forgotten on the present occasion, but the Lieutenant-Governor has decided to appoint a member of the Calcutta Bar who has already officiated several times in the Court.”

## BURNING OF PLAGUE-INFECTED CLOTHING.

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, said:—

“Is it a fact that the clothes of persons who die of plague or other infectious diseases in Calcutta are burnt in or near the street by kerosine oil, which becomes a nuisance to passers-by and creates panic in the minds of the public, and, if so, will the Government be pleased to order to stop the practice and to make other arrangements for burning the clothes in a secluded place?”

The Hon'ble Mr. BAKER replied:—

“The effects of persons who have died of, or been infected by, plague are burnt when of no value, and the burning is ordinarily done on the spot, or as near it as a suitable place can be found. But if the articles are to be carried away to a distance to be burnt, there is a two-fold risk: that they may spread infection on the way, and also that, as has happened in more than one instance, they may be stolen and become the centres of new outbreaks.

“The Health Officer has been instructed to make every possible effort to have such articles burnt in the least public manner possible; but if the public are to be protected from very real dangers, it is most inexpedient that such articles should be taken to any considerable distance.”

## BENGAL FINANCIAL STATEMENT FOR 1900-1901.

The Hon'ble Mr. BAKER moved for the discussion of the Bengal Financial Statement for 1900-1901.

The Hon'ble RAJA SHASHI SHAKHARESWAR ROY BAHADUR, OF TAHIRPUR, said:—“Only a few words I have got to say and that is in connection with the increment which has been made in the provision for primary education. Considering the resources now available to the Government for encouraging primary education, the increased provision made in the Financial Statement is not an unfair one, and although we are thankful for it, I think the need of the country in this direction requires a far larger outlay to produce any tangible effect upon the vast illiterate agricultural population.

“Belonging as I do to a class the first and foremost duty of which consists in providing their tenants with elementary education, I feel myself a little embarrassed when I ask the Government to discharge a duty which is incumbent upon them to do. But Sir, when the physicians' case is worse than their patients, they cannot but look to a higher party for remedy. In this matter of spreading primary education as the Government is always fully alive and more interested than any of us could pretend to be, it is not at all necessary for me here to say much in its support. What I beg to lay before Your Honor is that any attempt made by the Government in the matter of affording cheap and practical education suited to the requirements of the great agricultural population will always be gratefully acknowledged not only by the poor and helpless ryots themselves, but also by the large body of zemindars who are fully aware that their prosperity is closely blended with that of their ryots.

“The means to achieve this end, it is true, it is very difficult to suggest, as neither the expense on higher education could be curtailed nor the creation of any new source of income by the imposition of any fresh direct taxes upon the people is possible under the present state of circumstances. But I think, Sir, it is possible to make perceptible progress not only in the matter of primary education of the people, but also in the matter of village sanitation by securing the active co-operation and help of the zemindars and the village people, and this could be done, in my humble opinion, by reviving in some modified form the old village panchayet system of this country.”

The Hon'ble RAJA RANAJIT SINHA BAHADUR, OF NASHIPUR, said:—“Your Honour,—Last year at the time of discussion of the Financial Statement I expressed a hope that the year would end favourably, and I am glad to



find that my expectation has been realised to a certain extent, though not in full. We all know how the famine is causing havoc in other parts of the Empire, so we are fortunate in that respect, though there may be scarcity in some parts of Chota Nagpur and Orissa Divisions. Plague, Sir, I am sorry to say, has not left us as yet; so in face of its existence and of the scarcity in some parts of the Province, the budget as prepared by my hon'ble friend the Financial Secretary cannot but be considered satisfactory, and he is to be congratulated for the same. No doubt there has been an encroachment on our opening balance to meet the deficit of Rs. 1,00,800, but it is not disappointing when we find that it was done, not to meet any recurrent expenditure, but to meet extraordinary expenses on account of plague, famine and cyclone. I should take this opportunity of expressing our heartfelt thanks to Your Honour for the Circular published in the last week's Gazette regarding bifurcation of studies in high schools, which aims at commercial, industrial and practical education in Bengal, and which opens new fields for our countrymen to earn their livelihood.

"Sir, there are technical schools scattered hither and thither in some parts of Bengal, but for want of sufficient funds and encouragement, they are lying useless. The indigenous arts and industries of our country are gradually becoming extinct, and they cannot flourish, specially in this country, without State encouragement. I am fully alive to the fact that Your Honour takes a special interest in technical education, and so I beg that some grants-in-aid be sanctioned for such technical schools which, after necessary enquiries, are considered to be deserving of such aid from Your Honour's Government.

"Turning towards the head Police, I am glad to notice that provision has been made to give effect to the recommendations of the Police Commission by substituting Sub-Inspectors for head constables in investigating crimes. Sir, may I be permitted to suggest one improvement in the matter of conducting prosecutions of police cases in subordinate criminal courts? At present the Sub-Inspectors are employed to conduct such prosecutions, and get special extra allowances in addition to their pay for the same. As far as my experience goes, I think these men seldom possess sufficient knowledge in criminal law, and specially in the Evidence Act, and the result is that many guilty persons escape punishment. If the local pleaders or mukhtears be appointed for the purpose, the cases will be better conducted, and at the same time there will be no additional expenditure on that account, as in that case no extra allowance need be paid to Court Sub-Inspectors.

"Then, Sir, I find the income of our Law Courts is steadily increasing. If the actual collections in 1898-99 be compared with the figure put down in the revised estimate for 1899-1900, it will be found that there was an increase of Rs. 6,59,033 in the sale of court-fees alone; so in my humble opinion some improvement in the working machinery of our Civil Courts should be made. There is one universal complaint against the present system of process-serving in the Civil Court. The parties are put to much harassment and unnecessary expense by having the summonses served through the peons, who generally do not bear a very good reputation. It would be more convenient and at the same time less expensive if summonses could be served through the Post Office, and if this system be given a trial in some districts, I am sure it will prove successful.

"Then, Sir, the question of proper adjustment of the collection charges for Public Works and Road Cesses between the Government and the local bodies was a matter of criticism long since; and though, as a matter of equity, one-half of the charges should have been borne by Provincial revenues; we are, however, thankful to Your Honour for deciding to pay one-third of the actual cost of collecting both the cesses instead of the fixed sum hitherto paid. May I be permitted to suggest that the District Boards should be instructed to set apart the savings thus effected exclusively for the purpose of water-supply in addition to their annual grant for the same? It has already been brought to Your Honour's notice how intense becomes the sufferings of the people, specially those living in the interior, on account of the scarcity of water during the hot season. We are grateful to Your Honour for the kind assurance given by the Hon'ble Mr. Baker on your behalf, in reply to my question of 20th December last, that Your Honour has entire sympathy with

our desire that a pure supply of drinking water should be provided throughout the country, and we find that Rs. 10,000 was granted last year to the Bhagalpur Municipality for sinking wells, and so I am sure that the day is not very far distant when our cherished hopes will be realised and the long felt want of the people removed.

"Then, Sir, turning towards the head 'Public Works,' I find Rs. 15,000 has been provided for building Munsifs' quarters, and if something be done every year in that direction, I am sure in the course of a few years the grievances of Munsifs in that respect will be completely removed. Sir, with Your Honour's permission I should like to bring one matter to Your Honour's notice for favourable consideration. The Honorary Magistrates are doing useful service, but very little attention is paid to their legitimate comforts. Generally, where a Bench is situated at a subdivision or any outlying place, the worst part in the whole building is set apart for the Bench Court, and even then no proper accommodation is made. Sir, formerly no Honorary Magistrate used to be vested with a higher power than a Magistrate of the third class, and none was ever allowed to sit singly, and so they used to sit together as a Bench to try petty cases only, and had not to attend more than once a month, but now-a-days the case is different. There are very few Benches where some of the members are not authorised to sit singly or vested with first class or second class powers, and so they have to attend oftener and work like Stipendiary Magistrates, and so they feel much inconvenience for want of proper accommodation. I appeal to Your Honour on their behalf in this matter.

"The question of giving increments to the ministerial officers of the Government has been a matter of discussion long since. The two Financial Secretaries to the Government admitted the necessity of increasing their pay by 12½ per cent., but unfortunately nothing can be done as yet in that direction. To-day with Your Honour's permission I should add another class of Government servants to that list—I mean the ungraded officers of the Education Department. These men have to work for years together, and sometimes even for their whole life, on the same pay, without any prospect of promotion or increment; so after a few years' service they become disheartened and disappointed, and I am afraid the education of the beginners suffers at their hands. They are generally left unnoticed whenever there occurs any vacancy in any graded appointment; men from outside are generally recruited to it, and their claims are very seldom considered; so I hope this matter will receive favourable consideration at Your Honour's hands."

The Hon'ble DR. ASUTOSH MUKHOPADHYAYA said:—"Sir, I have no desire to detain the Council with a minute or exhaustive criticism of the Financial Statement which has been laid before us. It may be conceded that the resources of the Financial Secretary are taxed to the utmost when he is called upon to find ways and means in a year of exceptional difficulty, in which we have to face the effects of the appalling catastrophe which befell Darjeeling in September last, the effect of the terrible pestilence which has now unfortunately spread through various districts of the Province and perhaps also the effects of a famine which may prove an unwelcome visitor in spite of all that human prudence and human foresight can do. That under circumstances like these, the Hon'ble Member has found it possible to present so satisfactory a statement, is a matter for congratulation; and I shall content myself with offering a few remarks upon one or two heads of the Budget which deal with subjects in which I take a special interest, I mean the heads of *Education* and *Law and Justice*.

"First, as regards Education, I take the liberty to invite the attention of Your Honour's Government to the fact that in recent years, there has been a steady and marked decrease in the amount annually devoted to the maintenance of Government Arts Colleges. Neglecting fractions of a thousand, the amount spent in the official year 1896-97 upon Government Arts Colleges was five lacs twenty-four thousand rupees. In 1897-98 the amount was five lacs twelve thousand, in the year following it was four lacs ninety-four thousand, and in the year which has just closed it came down to four lacs seventy-five thousand. It is instructive to examine in detail the figures for the year which



has just closed and the year which is just beginning. For the year 1899-1900 the Budget estimate was five lacs twenty-eight thousand, being six thousand in excess of the Budget estimate and forty-eight thousand in excess of the revised estimate for the preceding year. It was explained last year that this increase was intended to provide for the purchase of instruments for the astronomical observatory at the Presidency College. A reference to the present Financial Statement, however, shows that the revised estimate for the year which has just closed is less than the Budget estimate by fifty-three thousand rupees and is less than the revised estimate for the preceding year by five thousand rupees. It is manifest, therefore, that the increase in expenditure, which was contemplated last year as rendered necessary by the astronomical Observatory at the Presidency College, has not been incurred. If the Observatory has not yet been fitted up, it would be important to know why no provision has been made for it in the present Budget. If it has already been equipped, this could only have been done by substantial reduction elsewhere, and I have grave doubts if this could have been possible without a corresponding reduction in efficiency. Again if we take the estimate for the official year which has just begun, we find that the amount set apart for the maintenance of Government Arts Colleges, is five lacs thirty thousand, which exceeds by two thousand, the estimated amount for the preceding year; but as the figure for the present year includes a sum of forty-six thousand rupees for the maintenance of the Eden Hindu, and the Elliott Madrassa Hostels which in previous years was included under a separate heading called 'Miscellaneous,' it is clear that the estimated amount for the present year is less than the estimated amount for the preceding year by fully Rs. 44,000. It is explained that a reduction of Rs. 28,000 will be made under the heading of 'Salaries and Supplies' of Arts Colleges. It is not explained, however, in what manner the further reduction of Rs. 16,000 will operate. But if this steady decrease in the amount annually spent for the maintenance of Government Arts Colleges is somewhat startling, it is a matter for surprise that the income derivable from fees in those Colleges, has, during these very years, steadily increased. In 1896-97 the increase from fees was Rs. 1,67,000, in 1897-98 the amount was Rs. 1,78,000, in the year following, it was Rs. 1,88,000, while the year which has just closed shows an income of Rs. 2,13,000, and if the estimate for the year which has just begun can be relied upon, it is expected that the figure will be fully maintained.

"I hope I have made it abundantly clear to you by an examination of the figures for the last five years that the income derivable from fees in Government Arts Colleges has steadily increased, while the amount spent for their maintenance has been steadily diminished. I should grievously fail in my duty if I had any desire to conceal the fact that this circumstance has been the source of the deepest regret to me as also to every educated Indian who has learnt to value and appreciate the advantages of high education. I am no prophet, but I can almost anticipate the answer of my hon'ble friend the Education Secretary. It will be pointed out that the Government has been steadily encouraging primary and secondary education and that the people have in a great measure, taken the cause of high education, as they ought to do, in their own hands. As to the first point, I may say at once that I yield to none in my appreciation of the duty of the Government to educate the masses, but I cannot overlook that it is equally the duty of the Government to offer all possible facilities for the high education of such portions of the community as may be qualified to receive its advantages. The position which I venture to take up is, I need hardly point out, amply sustained by the great Education Despatch of 1854. As regards the second point, I have heard a great deal in recent years about the establishment of Colleges throughout the country, by private munificence and under private management. I rejoice to think that these institutions have unquestionably popularised high education throughout these provinces, and I yield to none in my admiration for the wealthy and educated gentlemen who have taken part in this great movement. Their enterprise and self-sacrifice have been justly extolled both by Government and by the public, but no amount of rhetoric will blind me to the fact that their resources are necessarily limited. The foremost amongst the aristocracy of these provinces have held aloof from this movement, and I am not aware of a single

private institution whose permanence is assured or which can boast of an endowment in any way comparable to what the Colleges of Oxford and Cambridge can show. It would be idle, indeed it would be unfair, to compare our private institutions, either from the point of view of their efficiency or of their stability, with an institution which the Government, if it chooses, may easily maintain. Indeed in order that these institutions might be supplied with a thoroughly efficient staff, we must have at least one model College, where education is imparted at the highest possible standard by the best available men. I cannot admit that the time has come when the Government can safely weaken the cause of high education, and I have, therefore, noticed with the deepest concern this policy of retrenchment; retrenchment necessarily implies the employment of inferior agency or of competent persons upon inadequate salary; in either event, the result must be unsatisfactory. I speak so strongly upon the subject because I feel strongly upon it. In education if nowhere else, we must avail ourselves of the services of the very best men. My views may be called unpatriotic, they may even be condemned as heretical, but I make no secret whatever that if I had to appoint a Professor in any of our Colleges, I would without hesitation take the ablest man, be he Native or European, and give him an adequate remuneration. But if you make your other departments more attractive than the Education Department, if you hold out better prospects in the Judicial and Executive branches of your service, you cannot expect to have the best talent in the Education Department. I trust, therefore, that the time has come when this policy of retrenchment will be carried no further—I am not asking for a reversal of the policy and that there will be at least one College in the province which will be maintained at the highest attainable standard without any attempt made to cripple it by reductions under the head of 'Salaries and Supplies.'

"But, Sir, if I have ventured to criticise without reserve this policy of retrenchment in the matter of high education, I must discharge another duty of a more pleasing character; it would be ingratitude on my part not to thank Your Honour for the establishment of post-graduate scholarships for the encouragement of original research by the graduates of my University. It is a source of gratification to me that the University had, at my instance, taken steps in a similar direction when it made the Studentship founded by the munificence of Mr. Premchand Raychand of Bombay, tenable only upon condition of continued devotion to original research. The success of the scheme then adopted by the Senate has been now assured by the establishment of the scholarships to which I have just referred, and I trust the time is not far distant when, with an increasing number of workers in the field of original research, similar scholarships will be endowed by my wealthy countrymen in the manner so clearly indicated by the Government of Bengal.

"I have detained you too long with a discussion of matters educational and my intended observations upon the head of 'Law and Justice' must be necessarily brief. Indeed I shall confine myself to one point, reserving for another occasion the question of the salary of Judicial Officers and their house accommodation. The only point I wish to deal with relates to what is described as the Pleaders' Examination. I find that the receipts for this examination are very much in excess of the charges incurred. If you take the Budget estimate for the present year you find that the receipts expected are Rs. 53,000 and the charges only Rs. 16,000. If you take the actuals for the three preceding years you will find that the net profit to Government from this item alone has been Rs. 82,000. I confess that I cannot reconcile myself to the idea that it is dignified for the Government of Bengal to make a profit out of these examinations. The candidates who appear at these examinations come mostly from the middle classes of the community, and many of them are poor; the fees charged are, as appears from the figures I have just quoted, needlessly and perhaps often oppressively high; a reduction seems to be possible, and I trust the matter will receive the consideration of the Government."

The Hon'ble BABU BOIKANTA NATH SEN said:—"A Financial Statement which has been prepared by able and experienced experts is one which ought and does command our respect. The Budget estimate for 1900-1901 which starts



with an opening balance of 35 lakhs and which shows receipts to the amount of Rs. 4,70,00,000, and an expenditure of Rs. 4,80,00,000, leaving a closing balance of about 25 lakhs, no doubt is a very satisfactory statement. It shows a statement which is both satisfactory and popular. The Government has not to struggle to find funds to meet the cost of the administration; there is no necessity for the imposition of any new tax; no attempt has been made to curtail any expenses which are considered necessary for the good administration of the province; and in this respect the Government has to be congratulated on its financial position. On an occasion like this when there is an invitation to discuss the Budget estimate, I would fail in my duty if I did not take advantage of the opportunity to make suggestions which I think it necessary to make and which ought to be considered by the Government and which might eventually lead the Government to prepare revised estimates.

"First, then, with regard to Stamps, I find the revenue from this source estimated to amount to Rs. 46,75,000, three-fourths of which goes to the Provincial Revenues as receipts from non-judicial stamps. The new Stamp Act of 1899 has come into operation from July last. Under this Act stamps on leases are ten times higher than what they were under the Act previously in force. The stamp for a lease by which a rent of Rs. 100 is reserved used to be Re. 1, but now stamp-fee of Rs. 10 has to be paid, an increase of tenfold; therefore I venture to think that the revenue under the head of 'Stamps' has been underestimated.

"With regard to the revenue derivable from Excise I find that 140 lakhs have been estimated from the sale of liquor, of which one-half is the Provincial share. An increase in the revenue is anticipated, and from an explanatory note I find that the increase is said to be due 'to better settlement.' If the principle of raising a maximum of revenue from a minimum of consumption is to be considered the correct principle to be followed in raising revenue from the sale of intoxicating drugs and alcohol, I respectfully submit that that principle has not been followed. In the last Resolution of the Government in respect of the Excise Administration for 1898 exact figures have been given, and from them you will find a consumption of 530,000 gallons in 1898-99 as compared with 442,000 gallons in 1897-98, and showing an increase of about 20 per cent. in the consumption. This is certainly to be deprecated. The Government does not desire a larger consumption of liquor, not only from a moral point of view, but for other considerations as well; therefore you should make as much revenue as is practicable by as little consumption of alcohol as is possible. The explanatory remark that the increase is due to better settlement is an inducement to the officers who have to administer the law in the mufassal districts, to increase the revenue. I therefore cannot approve of that remark, nor do I think any increase of revenue ought to be taken into account under this head.

"Then under the head of 'Provincial Rates,' up to this time a certain sum was paid from Provincial Revenues towards the cost of collection of both the Road and Public Works Cesses. We feel thankful to the Government for having now decided to pay in future one-third of the actual cost of collection; we feel thankful, but we are not satisfied, for there is no reason why it should not be one-half instead of one-third. The matter was taken into consideration by the Members of the Board of Revenue, but they did not go far enough. Half and half would have given satisfaction; still we are thankful to the Government for what has been done. With regard to this also I think the statement in the Budget that an increase in Cess is expected in the districts of Dacca and Faridpur on the completion of re-valuations in those districts is objectionable, for it will operate as an inducement to the officers to increase the assessments. They will consider themselves bound to give effect to that expectation: they will look upon it as a sort of order.

"Then with regard to the Income-tax there is an explanatory note that there is a progressive increase in these receipts, and therefore an increased amount is taken into consideration, and the Collectors and Deputy Collectors in charge will consider themselves bound to show such progressive increase. I submit that the existing revenue ought to have been taken into account, and an increase ought not to be shown in the estimates.

"I have a few remarks to make with regard to Jails. The receipts from Jail manufactures are shown as amounting to Rs. 10,23,000 and the cost of raw materials as Rs. 7,55,000, leaving a net profit of Rs. 2,58,000; or in other words the value of the prisoners' labour and skill amounts to Rs. 2,58,000. If this revenue is obtained from the labour of the prisoners I think a little more money may be given for their diet. Fish in Bengal is a sort of staple food; and as I have the honour of being a visitor of the Jail in my district, I take considerable interest in the welfare of the prisoners, and I think the food given to the prisoners is not sufficient. I do not complain of the quantity of rice and dāl being insufficient, but a little fish ought to be given, and this might conveniently be given out of the profits derived by the Government from the labour of the prisoners, which this year amounts to Rs. 2,58,000.

"On the subject of Education my hon'ble friend Dr. Asutosh Mukhopadhyaya has made certain observations which we all value. Retrenchment in regard to high education we cannot agree to. For primary and secondary education as much money as can be allotted should certainly be given. I do not consider it necessary to repeat the observations which have already been made, and therefore I shall say no more on this point.

"Under the head of 'Law and Justice' sufficient details are not given with regard to the charges on account of the Civil and Sessions Courts, and we are therefore placed at a disadvantage. I think a little more money ought to be allotted for strengthening the ministerial establishment of the Munsifs, especially when they are attached to mufassal *chowkies*. In a mufassal *chowky* ordinarily there are not less than some 3,000 original suits and as many execution of decree cases. It is not possible for the few officers now in the establishment to work off all these 6,000 cases in a year. These officers work in the morning until 9 o'clock; then they take a hasty meal and attend Court and return from Court in the evening, and they work again from evening until 9 or 10 at night. They are interdicted from carrying records to their homes, but I fear the rule is violated, and they are obliged to take papers home to assist them in writing out the processes. In some cases the muharrirs of pleaders are called upon to write out papers, and they do it to expedite business. But notwithstanding this the ministerial officers work very hard, and their case ought to be taken into consideration. The addition of one muharrir to each *chowky* would be sufficient for the present.

"Under the head of 'Civil Works' there is a grant of Rs. 15,000 for the residences of Munsifs. This matter has been referred to by the Hon'ble the Raja of Nashipur, who thinks the allotment sufficient. But I am not satisfied with it. If for the improvement of the General Hospital and to make good the damages which occurred from what is known as the Darjeeling disaster four lakhs can be afforded, I think a little more money might be given for the residences of Munsifs, who have in many instances to live in common huts. Those who have been to the places inhabited by some Munsifs know what hardships they have to endure. In a few places habitable houses are procurable, but in most places no houses can be got. I submit that more money, say Rs. 50,000, should be allotted for building habitations for Munsifs wherever they are most needed.

"Lastly, with regard to Provincial Navigation Works—the works in connection with the Nadia rivers, which include three rivers, one of which is the Bhagirathi.

"The other day I had the honour of asking a question regarding the improvement of the entrance to the Bhagirathi: the answer given to me on that occasion was a hopeful one, and I expected that some provision would be made this year for the improvement of the entrance to this river and for making the channel navigable throughout the year. In the answer the deterioration of the Nadia rivers was admitted; also that the Government was fully aware of the deterioration of these rivers, and that it had been attracting the attention of the Government for years. I was also given to understand that the Government was fully alive to the necessity of keeping the Bhagirathi navigable throughout the year, and it was also recognised by the Government that on sanitary grounds it was desirable to have as large a discharge as possible in these rivers during the dry months. A statement was also laid on the table showing the revenue derived from the tolls on these rivers for the last ten years,



and the expenditure incurred upon them during the same period. The statement showed that during the last four years the expenditure exceeded the receipts, but taking the ten years' revenue and expenditure there was a surplus of about three lakhs. I expected, after having received that answer on behalf of the Government, that some provision would be made for improving the entrance to the Bhagirathi river and for improving its channel. Your Honour has seen this river from its entrance to the place where it is called the Hooghly, a distance of over a hundred miles. There are villages on both banks of the river the inhabitants of which use the water for drinking and domestic purposes. I do not wish to introduce sentimental considerations and the sacred aspect of the case in this discussion: that might be looked upon as the purely religious aspect of the matter. But purely on administrative grounds I lay the case before Your Honour. For over a length of four miles from the entrance there are only three inches of water. Large shoals have come into existence within the last four years. The very fact of a diminution of revenue shows that the channel has become less and less navigable. It might be said that the revenue has been affected by the railways; but I venture to submit that the traffic has not been taken away by the railways to such an extent as to materially decrease the revenue. But, apart from the merely commercial view of the matter, I appeal to Your Honour's Government from a purely administrative point of view. The Government has always shown considerable anxiety in securing good drinking-water for village populations and to improve the sanitation of villages. From the way in which the Bhagirathi is silting up, I think it will silt up to a very large extent within the next few years. There will be no continuous stream; no depth of water for a hundred miles together; already aquatic plants are springing up in the bed of the river; the soil will become marshy and become a nursery for malarial diseases and pestilences of some sort or other. The health of the people will become affected; they will not have any drinking water, and the port of Calcutta itself will be affected. If there be no proper discharge in the Bhagirathi in the dry season the port of Calcutta must become seriously affected: it cannot remain as it is. It was only the other day that the water-works of Berhampore were opened, but they will soon be of no utility. Owing to want of sufficient quantity of water brought about by the deterioration of the river, the suction-pipe had to be extended. There was a sufficient supply this year, but in a few years there will not be any supply at all if the present state of things goes on. There being a diminution in the volume as well as the velocity of the stream, the shoals become greater and greater, and in a short time a much larger amount of silt must accumulate, and when the pestilence appears the Government will have to spend lakhs and lakhs of rupees to deal with it. Is it not therefore desirable that this state of things, which is sure to occur very shortly, should be prevented? Is it not preventible? I submit it is. It is a practical problem. Your Honour's Government stated the other day by the mouth of the Hon'ble Mr. Buckley that a large dredger was expected by the Port Commissioners, and that that dredger might be used to clear the silt which has accumulated, no doubt at a heavy cost. Suppose even a lakh has to be spent for working the dredger for three months—September, October and November—when the river commences to fall after the rainy season. Is not that desirable? Is it not necessary that the Government should spend that amount and take proper measures to prevent the occurrence of such a disaster. If the river becomes navigable throughout the year and the improvement be effected from a commercial point of view, the revenue will increase proportionately. But independently of that consideration I submit that, having regard to the sanitation of the districts of Murshidabad, Nadia, Burdwan and Hooghly, and the providing of a sufficient supply of good drinking water, there is absolute necessity to take effective measures, after such consultation with the expert advisers of the Government as may be necessary to prevent the silting up of the channel. There has been a suggestion recently made by an Engineer to cut out a new channel. I am not an expert and do not pretend to form any opinion on such matters, but I would respectfully suggest the use of the dredger in the first instance. I fully appreciate the force of the observation which has been made that the changes which are taking place in the deltaic tracts will soon result in the silting up of the channel, if not in ten years, in twenty, thirty or fifty

years, or it may be in a century. Men must die some day, but is that any reason why medicine should not be taken when the necessity arises? I earnestly submit that the Government should take such measures as they might think proper in order to prevent as far as practicable the silting up of this channel."

The Hon'ble BABU SURENDRANATH BANERJEE said:—"I am sure the attention of Hon'ble Members has been called to a remarkable article which appeared in the *Pioneer* in the course of this week. The writer has evidently been impressed by the unique demonstrations of loyalty which the Boer War has elicited among all classes of the community in all parts of India, and impressed by these demonstrations, he formulates the policy, born of Imperialistic ideas, which ought to guide the Government of India in its relations with the people of this country. The writer says with great force and truth that the difficulties of Indian administration can only be minimized by conciliating the people and conciliating public opinion in regard to its various administrative measures. The invitation of the Government of this Province to discuss the Budget from a popular point of view is an open attempt to focus the expression of public opinion on the various items in the Budget, with a view to action in the future. No doubt the Budget which is laid before us has already been settled by the Government of India, and anything we might say is not likely to lead to any modification, for it was in that view I suggested on a former occasion that the Budget should be laid before this Council before it was submitted to the Government of India. But there were difficulties in the way, and the suggestion was not accepted. All the same, I am not prepared to admit that our discussions are purely of an academic character. Our suggestions might prove of use in framing future Budgets, and whatever we may say may fructify for good in regard to the future.

"We have before us in this Budget the accounts of three years. We have the actuals of 1898-99, the revised estimates of 1899-1900, and we have the budget estimates of 1900-1901. With regard to the first of these the cash balance is less by two lakhs, and this was due to shorter collections under the head of Land Revenue and larger expenditure on Public Works. I hope the Hon'ble Member in charge of the Financial Department will tell us what was the amount of short collections of Land Revenue, and that he will also give us some explanation as to the details of the expenditure on Public Works. With regard to the revised estimates for 1899-1900, the financial position shows a betterment by 19 lakhs of rupees. This is due partly to increase of revenue and partly to reduction of expenditure. The two most noticeable heads of increase are Excise and Stamps. My hon'ble friend Babu Boikanta Nath Sen has referred to these important questions. We have been furnished with an explanation under the head of Excise. While the Executive Government view with satisfaction any increase in the Excise Revenue, all public men in India view with suspicion any great expansion of Revenue from Excise. My hon'ble friend the Financial Secretary says that the growth of the Excise Revenue is due to the growing prosperity of the people; that has been the invariable answer which has been given by Chancellors of the Exchequer in all parts of the world to account for the expansion of the Excise Revenue. Well, Sir, we are told there is a growth of prosperity among the people. I am one of the people; I live among the people; I rejoice in their joys; I sympathise with their sorrows. The middle-class man is truly in a bad way with the prevalence of plague and malaria. What with his fixed income, the rise in the cost of provisions and labour, he is hardly far removed from bankruptcy, and if he has a number of daughters to get married, then only the intervention of the Divine Providence can save him from irretrievable ruin. I do not see any trace of prosperity. I do not wish to enter into the larger consideration whether under British rule there has been an accession or a diminution of prosperity among the people. That is not relevant to the issues before us. All the same, I say most distinctly—and I am sure my hon'ble friends of the middle classes who are here, as well as those of the nobility who are present, will agree with me—that there are no traces of prosperity among the middle classes who constitute the backbone of the community. If we are not prepared to accept the view of my hon'ble friend, his figures disclose a mournful situation. There has been an increase



in the consumption of liquor, but no increase in the prosperity of the people. I do not know what the answer of the Hon'ble Member will be to the disclosures which have been made by the Hon'ble Babu Boikanta Nath Sen. Possibly he will say that there has been an increase in the population, but surely there cannot have been such an increase of population in one year as to justify an increased consumption to the extent of one-third? There has been a sensible increase in the revenue from distilleries and outstills. The figures in page 13 show an increase of 13 lakhs of rupees from the revenue under this head. I hope the Hon'ble Member will be able to give us the assurance that there has been no increase in the number of distilleries and outstills. And I venture to suggest whether it will not be desirable to open a new column to show the number of outstills licensed from year to year and the fees derived from them.

"The next point to which I desire to call attention is with reference to the receipt side of the revised estimates of 1899-1900, namely, the fees realised from the sale of Stamps. My hon'ble friend Babu Boikanta Nath Sen has already referred to this matter. There has been a large increase; what does that mean? It means an increase of litigation. Litigation may enrich the Government, but it impoverishes the people. I cannot think of any section or class of the people whom litigation can benefit, save that distinguished profession which is so largely represented in this Council,—all the same, litigation is morally and financially disastrous to the people of these Provinces. It is one of those things which we have learned from English influences. It is repugnant to our own instincts. Arbitration was the ancient mode of settling disputes. It is as old as the hills and is graven deep on the instincts of the people. I was surprised at the omission of my hon'ble friend, the Raja of Tahirpur, to refer to this important matter. I thought he was an enthusiast in this matter, and I wish he would bring to bear on this subject the zeal which he so conspicuously displays in connection with his pet scheme of the Rajkumar College. This matter was referred to by the Hon'ble Mr. Toynbee in the recent debates in the Imperial Legislative Council. He said it would be the duty of Government to foster a system of settlement of disputes, the effect of which would be to put an end to litigation and to create Arbitration Courts. My friend, Mr. N. K. Bose, when he was Magistrate of Noakhali, started Arbitration Courts with admirable results; they were the subjects of praise from the Government. There was a talk the other day of establishing a Sub-Divisional Court in Barrackpore, where I live. I discussed the matter with the Hon'ble Mr. Bolton and set my face strenuously against it. It would benefit no one but the pleaders; the people should be left to their own unaided instincts to settle their disputes with the help of the leading members of their community. It would be a good thing if, before laying down the reins of your great office, Your Honour did some thing to establish these Arbitration Courts which would enable the poorer sections of the community to avoid resorting to expensive and harassing litigation, and to settle their disputes among themselves.

"There is one other matter with regard to the revised estimates of 1899-1900 to which I wish to refer,—I mean Jail manufactures, which show a steady tendency to increase. I hope these manufactures do not stand in competition with private enterprise. And I join my hon'ble friend Babu Boikanta Nath Sen in his appeal for a little fish to be given to the prisoners. My own conviction is—I hope I may be wrong—that the prisoners do not get all that is paid for; that they get only a percentage of it, and that being so, it would be well to give them a little fish in addition to the prescribed dietary which they do not fully receive. European prisoners get their meat; why should not Bengalis get their fish? It is a staple article of food in these Provinces, and the deprivation of it is much felt.

"Coming to the Budget estimates of 1900-1901, I desire to refer to the increase in the land revenue of  $4\frac{1}{2}$  lakhs mentioned in page 12. I want to ask whether the increase is due to the over-assessment of land? We in Bengal enjoy the inestimable blessing of a permanent settlement of the land revenue, and I hope that the Government of India in its wisdom may see its way to extend the benefits of the permanent settlement in a modified form to other Provinces. I ask whether the increase of land revenue to the extent of  $4\frac{1}{2}$

lakhs represents the result of re-assessments and over-assessments which have been made?

"Then under the head of Assessed Taxes my hon'ble friend Babu Boikanta Nath Sen has already made certain suggestions. I desire to call attention to the item of penalties. The actuals for 1898-99 were Rs. 22,836; and in the revised estimates of 1899-1900 and the Budget estimates of 1900-1901 it is increased to Rs. 25,000. When the estimates for penalties are increased there is always a desire on the part of the departments concerned to work up to them by inflicting heavier fines. Too exorbitant penalties should not be inflicted in cases of this sort: there ought to be no incentive to do so. Then with regard to the collection of the Income-Tax, a considerable increase has been estimated for. Have you any data for raising the receipts so high notwithstanding the present state of the country?

"Then I come to interest on loans to municipal and other bodies. That shows an increase from Rs. 1,42,000 to Rs. 1,75,000. Have you provided for the grant of larger loans to Municipalities and District Boards? I hope the Hon'ble the Financial Secretary will be able to give me an answer in the affirmative. I ventured to suggest on a former occasion that steps should be taken to provide the riparian municipalities with effective drainage. It will not be in the power of these Municipalities to take steps in that direction without considerable assistance from the Government, and if my hon'ble friend will give the assurance that larger loans are to be given to local bodies, and among others to the riparian municipalities as I have suggested, I shall be satisfied.

"Then I turn to the receipts from the Midnapore Canal, where there is a falling off in the estimate from Rs. 2,33,000, the actuals for 1898-99, to Rs. 2,02,000, the Budget estimate for this year, but there is no explanation given. In the case of the Orissa Coast Canal we have the same thing; there is a falling off from Rs. 75,000, the actuals of 1898-99, to Rs. 50,000, the Budget estimate for this year, a falling off of several thousands.

"Now I come to the expenditure side of the Budget. Land Revenue is the first item to which I shall refer. Under the head of 'Charges of District Administration' the explanation as to the increase is that it is for larger provision under 'Salaries and Establishments' which are specified. That will explain the increase in the year 1900-1901, namely, from Rs. 30,49,000, the actuals of 1898-99, and Rs. 30,27,000, the Budget estimate of 1899-1900, to Rs. 31,68,000 in 1900-1901; but it will not explain the increase from Rs. 31,00,000, the revised estimate for 1899-1900, to Rs. 31,68,000, the Budget estimate for 1900-1901, and I solicit an explanation. Then under the head of 'Management of Government Estates' we have an increase of expenditure from Rs. 4,70,000 to Rs. 5,00,000, but there is no explanation given. Under the head of 'Land Records and Agriculture' the revised estimate of 1899-1900 is Rs. 83,000 and the Budget estimate of 1900-1901 is Rs. 93,000. The explanation is that there were savings under salaries in 1898-99. That would explain the figure Rs. 83,000, but it will not explain the increase to Rs. 93,000.

"Then I come to Stamps. There is increase from Rs. 78,000, the actuals for 1898-99, to Rs. 83,000, the revised estimate of 1899-1900, and to Rs. 86,000, the Budget estimate for 1900-1901, and it is explained that the increase is partly for increments in the salary of the Superintendent. Under the head of 'Charges for the sale of general stamps,' it is stated that there has been a shrinkage in the sale of general stamps, but yet the charges have increased. This requires explanation.

"Under the head of Customs, the Collector's establishment has increased, the Appraising establishment has increased, the Preventive establishment has increased. In fact the whole of the Collector's establishments show an increase, and the same observation applies to salaries under the head of Forests. Whenever there is an increase in salaries, I submit careful explanations are necessary; but unfortunately in most cases explanations are not given.

"Then coming to General Administration, there is an increase under the head of Civil Secretariats, and the explanation is that it is an increase in the grant for Contingencies, but there is no further explanation given.

"Then I come to Law and Justice. I shall not take up the time of the Council with many remarks on this head, because a great deal has already been said with regard to this part of the Budget. As for the grant of Rs. 15,000 for



the residences of Munsifs, I should like to know whether any houses have been erected during the year which has just expired. On previous occasions Budget estimates were framed under this head, but they were not given effect to. Under the head of Jails, the charge for superintendence has increased. Then again no explanation is given with regard to the increased estimate for contingent charges under this head, which has risen from Rs. 36,000, the actuals for 1898-99, to Rs. 41,000, the revised estimate of 1899-1900, and to Rs. 42,000, the Budget estimate for 1900-1901. I desire to remark that contingencies cover a multitude of sins; it is therefore necessary to give details, and it is dangerous to budget a large sum under a vague and indefinite head like this. It used to be done in the Calcutta Corporation when I was a member of that body, but the Commissioners would insist upon details. I think it is a matter which calls for reform.

"Under Police you have under the head of District Executive Force this explanation--'Provision made for the gradual substitution of Sub-Inspectors for Head Constables in accordance with the recommendation of the Police Commission.' I desire to ask a question or two in connection with this matter. The Police Commission made their recommendations, and suggested the improvement of the status and emoluments of Head Constables, Sub-Inspectors, and Inspectors. Sir Charles Elliott's Government did not accept the whole of these recommendations, although the Commission was an exceptionally strong one, and was presided over by a very experienced officer, Mr. Beames. After a most exhaustive enquiry they made certain recommendations the effect of which would have been to improve the status of Head Constables, Sub-Inspectors, and Inspectors. Sir Charles Elliott modified those proposals very considerably; he would on no account consent to improve the status of the Inspectors which he thought sufficiently good. I ask, Sir, whether in the exercise of your discretion Your Honour's Government are prepared to accept the recommendations of the Police Commission so far as the pay and position of Inspectors and Sub-Inspectors are concerned. Public opinion would strongly support Your Honour's Government if you accepted the recommendations of the Police Commission. If you want to improve the efficiency of the police it is not necessary to improve the position of the constable. If you increase the pay of the constable by one rupee, he will make a proportionate addition to the fee which he formerly used to extort. But the improvement of the pay and position of Inspectors is necessary. Unless honest and competent men are appointed Inspectors the status of the police will remain as it is. Look at the dakaities which so frequently occur in the 24-Parganas. Three dakaities recently took place in Barrackpore in the houses of the Civil Surgeon, the Assistant Surgeon, and another medical man. Dakaits seem to favour Doctors. None of these dakaits have been caught, but if there was a police worth the name things of this kind could not occur. You have no proper agency for the detection of crime, and unless you improve the position of your expert agency, viz., the Inspectors, there will be no improvement. I therefore make an earnest appeal to Your Honour to carry out the recommendations of the Police Commission in this matter.

"Now I come to the question of Education. My hon'ble friend Dr. Asutosh Mukhopadhyaya has referred at some length to this subject, and I will not repeat what he has said. The allotment for grants-in-aid has been increased owing to a suggestion which was made on the last occasion. I quite agree with my hon'ble friend that the time has not yet come when the Government can withdraw with safety from the field of higher education. Private colleges are still in an infant state. I speak with a full sense of my responsibility as the proprietor of a great private college, and I do not think the Government can, consistently with the public interests, withdraw from its support to high education or impair the efficiency of the Presidency College. That College ought to be preserved as a model college, and it is so in many respects. It is strong in the department of science, and its efficiency ought to be maintained.

"Having made these observations on the general question of Education, I now desire to raise a note of dissent with regard to the proposed scheme of the bifurcation of studies which has been recommended in a recently published Resolution of the Government. I am in strong sympathy with the desire of the Government to solve the problem of all problems, viz., the bread-problem.

Here are our graduates who are glad to take up any work for the small pittance of Rs. 20 or Rs. 25 a month. The object of this Resolution is to put bread into their mouths, and from that point of view I am strongly in sympathy with the proposal of the Government, but my fears lie in another direction, for the effect might be to impair the interest of high education. A scheme such as this was formulated some years ago and was laid before the Syndicate of the University, but after mature consideration it was abandoned. Your Honour has practically revived that scheme. The only apprehension I have, as I have said before, is that it may have the effect of injuring the interests of high education which I am certain Your Honour's Government is anxious to promote. The position of the Government and of the educated community in this country is this—we want high education, but we also want technical education: the one should not trench upon the other; each should minister to the wants of the other, and they should co-operate each to promote the interest of the other. That I take to be the attitude of the Government and of enlightened public opinion with regard to public education. It is because I am apprehensive that the proposed system of bifurcation of studies may have the effect of injuriously affecting the interests of high education that I now refer to the matter. I hope that my anticipations may not be realised. I have a suggestion to make in this connection, and I hope my hon'ble friend, the Secretary in the Educational Department, will accept it. I would strongly suggest that shorthand ought to be included in the B Course. We know how dreadfully we are reported in this Council; those who make speeches have to pay a penalty for making them. During the passing of the Calcutta Municipal Bill we sat for fifteen days; I should gladly have sat for another fifteen days, if the duty of correcting the proofs had been withdrawn from me. It is a matter of the first importance that we should be provided with an efficient body of shorthand writers. In Madras and in Bombay you have most efficient shorthand writers. But in Calcutta we suffer from this want. I appeal to my hon'ble friend to consider this suggestion. In this connection I cannot but deplore the curtailment of the prospects of employment for our countrymen in the higher branches of the Engineering Department. Roorkee is closed against us; the Sibpur Engineering College passes two Indian apprentice engineers in three years. It does not even supply a single recruit every year, and now a ruling has just been issued by the Secretary of State the effect of which is to limit the supply from Cooper's Hill to two Indians, no matter how many might qualify. The Government of Bengal may do its best; but when the avenues to distinction are closed, you will not be able to attract the best men in the country to the technical studies. When the Medical College was started, what was done? The Indian who first dissected a dead body was made a hero. His portrait adorns the theatre of the Medical College. You do not present to us these opportunities of distinction, and therefore you cannot expect our best men to join the technical schools. It is not in human nature to do so. I have made these remarks in the hope that you may do something in that direction—that the higher appointments in the Engineering Department may still be open to us.

"There are one or two other matters to which I shall call attention in a hurried manner. First as to Stationery and Printing. The expenditure on account of Government presses is steadily increasing, and then as to printing at private presses, are tenders called for before any work is given out? It is a matter of the first importance that tenders should be called for, and that the public should have an opportunity of competing and submitting tenders. Then as to 'Miscellaneous and unforeseen charges,' there is a sort of logical contradiction in providing for charges which are unforeseen. How can you provide for charges which you cannot and do not foresee? What is the basis on which this provision is made? One word more as to Civil Works in charge of the Public Works Department. The establishment charges under this head have largely increased, but there is no explanation for the increase.

"These are all the remarks I have to make on the Budget, and in conclusion I have to congratulate the Hon'ble Member in charge of the Financial Department on the prosperity budget which he has presented to the Council, and which embodies a policy of sympathy and friendliness towards the people of this country."



The Hon'ble MR. BOURDILLON said :—"I have a few remarks to make in answer to the observations which have been made by Hon'ble Members in connection with the departments of the Secretariat which are under my control, and I shall give as far as in me lies the information which has been sought by the questions which have been asked. These departments fall under four heads of the Budget, namely, Registration, Law and Justice, Police, and Jails. I first propose to deal with the requisitions for information on particular points, especially with regard to some which do not explain themselves and with regard to which some more detailed information seems necessary. First then as to Registration. The Hon'ble Babu Surendranath Banerjee observed that no explanation has been given of an increase of Rs. 40,000 in the revised estimate of 1899-1900 and in the budget estimate of the current year. The answer is a very simple one, and it is that the increase represents the probable ordinary development of registration which is gradually being better appreciated and more largely used year by year. The increase of Rs. 40,000 in an estimate of Rs. 14,40,000 represents only 2·7 per cent.

"The Hon'ble the Raja of Nashipur has referred to the question of ministerial establishments, and both he and another Hon'ble Member expressed the hope that the estimate would be increased and the pay of ministerial officers be raised. This, as Your Honour is aware, and as many Hon'ble Members are aware, is a very old question, and it has been referred to from time to time in this Council. The Lieutenant-Governor has admitted that it is a serious question, and that nothing but a want of funds has prevented its being taken up hitherto; there is no doubt that before many years are passed it will have to be faced, and some concessions made, not only in the direction of increased establishments, but also in the direction of higher pay, regard being had to the increased cost of living and the general advance in the standard of comfort.

"The next suggestion which has been made is that Civil Court processes should be served through the post. This is not the first time that this suggestion has been made. In the time of Sir Charles Elliott the High Court was approached on the question of the service of civil processes through the post office, but they were unable to accept that suggestion. The Court stated several weighty reasons why effect could not be given to the proposal, and amongst them they pointed out that in the case of the service of processes by post it would be most difficult for a dāk peon to discover the whereabouts of the addressee; whereas under the present system the parties or their agents give effectual assistance to the court peons in serving process, but that assistance would be wanting if the service is to be made by the ordinary dāk peon. For the present, therefore, this matter has been finally settled, and there is little prospect of its being brought forward again.

"More than one Hon'ble Member referred to the question of the accommodation provided for the Benches of Honorary Magistrates. It is universally admitted that gentlemen who give their time and labour to the service of the State deserve every reasonable consideration in the matter of accommodation. But either the experience of the Members who referred to the subject has been unfortunate, or mine has been exceptionally fortunate. I have not found that Benches of Honorary Magistrates have been thrust away into the worst rooms of an office building. On the contrary, I have found, in that part of the Province with which I have been chiefly connected, that the Magistrate of the district himself usually puts his Court at the disposal of the Bench. At any rate the Hon'ble Member who has made the complaint may rest assured that the matter will receive every consideration at the hands of the Government.

"On the subject of Arbitration Courts, it had been my intention to speak, but the Hon'ble Mr. Oldham, who has taken considerable interest in the matter and is fully conversant with the subject, has undertaken to reply to the remarks which have been made about them.

"Attention has also been drawn to the question of Jail manufactures, and the hope was expressed that they do not enter into competition with private enterprise. The standing orders of the Government of India are very clear and decided in this matter, and as far as possible manufactures in Jails are in no way allowed to compete with private trade; three-fourths of articles manufactured in Jails are in fact made for the purposes of the Government and are intended to supply the wants of some of its spending departments. Tents,

blankets and articles of clothing for the military, chaukidars and police form a large proportion of Jail manufactures. And so far from the sum which has been set down as profits from Jail labour being net receipts, I am able to state that taking the value of each convict's labour in the year and the amount of expenditure incurred in feeding, housing and watching him, the Government steadily loses Rs. 12-5 upon every convict during the year. The costs of manufacture are also very large, and when you add to that all other charges and costs, the profits dwindle to a very small sum.

"The question of prisoners' diet has also been referred to with much pathos by one or two of the speakers. This question has long engaged the attention of the Jail authorities, and many years ago it was settled what should be the proper diet of prisoners, a rate and standard which have stood the test of long experience. Moreover, it is well known that as a rule prisoners, far from losing weight in Jail, actually increase in weight. No doubt during the first month or two incarceration has very often a bad effect, but in the case of long-term prisoners their weight usually goes up, and they go out of Jail in better health than when they entered it. It was at one time thought that there was perhaps some relation between the health of a Jail and the cost of diet in it, but it has now been found that this is not so, and orders were issued not long ago that the statement prepared annually to show the facts should be abandoned as useless and misleading. There is also no relation between the cost of diet and the profits of Jail manufactures. It is impossible to urge that because a Jail has worked with profit in one year the diet of the prisoners should be increased in the next. The argument is altogether fallacious, and cannot be pressed to a conclusion.

"Lastly, some remarks have been made with reference to the head of Law and Justice: questions were asked as to the disposal of the surplus receipts from fees for Pleaders' examinations, and it was suggested that the Government should surrender some of the handsome receipts from this source. It is hardly necessary for me to repeat that no department of the Government can be treated in this way; that receipts and expenditure cannot be ear-marked; and that the receipts from each separate department must be thrown into one general pool to meet the general expenditure. Moreover, I did not gather from any Hon'ble Member that he thought there are too few pleaders in Bengal and that the fees should be reduced to an extent which would enable the poorer classes to enter themselves for examination. If that were done, the number of persons who would compete would certainly be larger, and the result would be failure to pass and great disappointment to many of them, or if they did pass they would share the fate of those who are Pleaders in name alone and would swell the numbers of those who fail to make a living by their practice.

"The last question to which I need refer deals with the recommendations of the Police Commission. I was told before I entered the Council room this morning that I should be asked to state what had been done to carry out the recommendations of that Commission. I received that announcement with consternation, for to answer it in full would have taken up much time: it was with much relief that I found that the enquiry really was only whether some thing cannot be done to improve the status of Police Inspectors. The total extra cost of the measures adopted by the Government in carrying out such of the recommendations of the Police Commission as it determined to adopt amounts to Rs. 7,72,000, spread over a period of ten years, and the tenth year (1902-1903) will see all those measures carried out. When that has been done and we have the funds, I have no doubt that Your Honour will again take up the remaining suggestions, and give the question of improving the pay and position of Police Inspectors due consideration. Many of the existing Inspectors are men of high character and attainment, and it will be a great advantage to the country if anything can be done to raise their position and emoluments so as to attract an even better class of men to these responsible appointments."

The Hon'ble MR. SLACK said:—"The departments in my charge are those of Education, Land Revenue, and Forests, and I propose as far as it is in my power to supply the information which has been asked for and to discuss the suggestions which have been made in respect of those subjects. Every one will admit that the grant for primary education is not as much as we should like



it to be, but I understand that the Hon'ble the Raja of Tahirpur does not suggest that the Government is in a position to do all that is desirable in this direction. The Hon'ble Member, however, proposes a means for the attainment of that object, viz., that the old panchayet system should be revived. I am not in a position at present to discuss how that system can be revived, or how, if it can be done, it will assist the Hon'ble Raja in attaining his object. If he will be good enough to draw up a scheme embodying his ideas, it will, I have no doubt, be most carefully considered by Government.

"With regard to the subject of technical schools, to which the Hon'ble the Raja of Nashipur has alluded, the present policy is that the bulk of the necessary cost should be provided by the local body at whose instance a technical school is established, though in some instances small grants have been made by the Government to schools supported by allotments made by District Boards and other local bodies.

"The Hon'ble the Raja of Nashipur has said a great deal with respect to the prospects of the ungraded officers of the Education Department, whom he describes as being in a very hopeless state. I find that yearly lists are supplied to the Director of Public Instruction by his subordinate officers showing which of these officers are entitled to promotion to the graded service, and the bulk of the lowest grade of that service is filled up from the officers in the ungraded list, so that to say that the state of these officers is hopeless is not according to the actual state of facts.

"Then we have had a very startling picture drawn by the Hon'ble Dr. Asutosh Mukhopadhyaya, who condemns the steady retrenchment which he says has been going on from year to year with reference to education in Arts Colleges.

"What I understood him to say is that he considers the policy of retrenchment interferes with the efficiency of the Government Arts Colleges. That is a contention which I am sorry I cannot admit, because almost in the same breath he draws attention to the great increase in the fees received at these Colleges. If the policy of the retrenchment of which the Hon'ble Member complains is causing the Government Arts Colleges to become inefficient, it can hardly be expected that the parents of students would continue to send their children to the Government Colleges and not to one or other of the several excellent private colleges that now exist. Instead of there having been any real retrenchment, it will be seen that in the year 1900-1901 the number of Professors will be greater than in the year which has passed. The decrease in expenditure, to which the Hon'ble Member adverts, is not of a nature to affect the efficiency of the Government Colleges. It is caused partly by the substitution of officers of the Provincial for those of the Imperial service. Occasionally in some years there is another cause that influences expenditure, viz., the absence on leave or for other causes of officers on high pay, their places being temporarily filled by officers drawing much lower salaries. An instance in point is that of Mr. Rowe, whose absence on leave resulted in a monthly saving of Rs. 1,350.

"As to the proposed system of the bifurcation of studies the Hon'ble Babu Surendranath Banerjee seemed to think that it will interfere with the progress of high education. If the Hon'ble Member meant that in the future the number of B.A.'s. and M.A.'s. will not be so great as it now is, owing to the existence of causes not merely literary, he is no doubt correct, but how this will adversely affect high education I am at a loss to understand. In spite, however, of his fear, the Hon'ble Member proposes that shorthand should be taught. That is a proposal which has already been discussed by Government, by whom it was not considered essential; but should it be considered advisable hereafter to introduce shorthand classes among the other practical subjects of study prescribed, I have no doubt it will be done. These are all the remarks which I think it necessary to refer to on the subject of education.

"Then the same Hon'ble Member asked why in 1898-99 the collection of land revenue fell below the estimate. The deficiency is due partly to remissions made on account of the damages done by the cyclone which visited the district of Chittagong, and partly, so I consider, to the probability that in certain Collectorates large amounts were not brought into account until after the

year had closed, and therefore did not appear in the accounts for that year. If future enquiries show that I am not correct in what I have stated, I will inform the Hon'ble Member later on.

"The Hon'ble Member also wanted to know how much was due to over-assessments and how much to revision of settlements. With regard to the former I can supply no information, as none is forthcoming. Concerning the latter I may mention that of the 4½ lakhs increase of revenue, Rs. 3,65,000 was due to revision of assessments in Orissa, and the rest to various Government estates which were revised.

"Concerning the small increase of Rs. 10,000 in salaries and land records, to which allusion has been made, I can only say that there is always a variation in this item which depends on the number of officers appointed to carry out land registration.

"The same Hon'ble Member drew attention to an increase of expenditure under the head of Forests. I may explain that last year several of the higher paid officers were either on deputation or on leave, and their places were filled by others on smaller pay, and it was decided by Government that the Budget under discussion should provide, not merely for the normal establishment, but also for the addition which lately has been asked for owing to the increase that has taken place in the work due to the expansion of the area under the Forest Department."

The Hon'ble Mr. BAKER said:—"Before replying to the various remarks that have been made on the Financial Statement, I desire to acknowledge the fair and courteous manner in which Hon'ble Members have dealt with it. The discussions have been as discursive as usual, and range over almost the whole field of Provincial administration. The suggestions and comments that have been made have been varied and numerous, and leave scarcely any department of the Government untouched. These suggestions are not all equally valuable or practical. That is only what might have been expected. But there is, I think, one characteristic which is common to them all. I mean the evident desire of every Hon'ble Member who has spoken to do his duty by the Government and the public, to offer to the Government the utmost assistance in his power by drawing attention to matters that may require further clearing up, by indicating points in which the Provincial revenues are in need of further development, or are developing along dangerous lines, and by suggesting directions in which a more liberal scale of expenditure is called for in the public interest. Among all the suggestions and comments that have been made to-day, there is not one which is marked by a desire to carp or cavil, to embarrass the Government, or to criticise merely for the sake of finding fault. All without exception are helpful, friendly, and well intentioned. This characteristic is no new thing. It is in strict accordance with the past traditions of this Council, and it goes far to justify the foresight of those Statesmen who decided eight years ago that the Provincial Budget should be subjected to discussion in the Legislative Council.

"I will give one illustration of the advantages which may be expected from these discussions. It arises out of a suggestion made by an Hon'ble Member on the present occasion. The Hon'ble Babu Surendranath Banerjee intimated to me that he desired an explanation of the difference between the revised estimate and the budget estimate of the year which has just expired under the head of General Administration, and also with reference to some sub-heads under the head of Law and Justice, Civil and Sessions Courts, and, I think, Criminal Courts. When I came to prepare the explanations wanted, I found that the information in my office, although it gives in a general way the substance of what is required, does not give it in complete detail. The Accountant-General, upon whom the responsibility rests for preparing the revised estimate, furnishes us with the details of the minor heads, but does not give us the particulars which go lower down. It is therefore not always possible to give explanations of increases or decreases as between the revised estimate and the budget estimate of the year. I think that is not wholly satisfactory, and I am arranging to get from the Accountant-General in future the details of the revised estimates to enable us to answer enquiries of this kind on future occasions. Not only will this enable us to answer questions that may be put on



occasions like the present, but it will give us a clear knowledge of the exact position of Provincial affairs when we are preparing the Budget of the coming year.

"I shall now refer to some of the points which have been raised by Hon'ble Members, excluding those which have been dealt with by the Chief Secretary and the Hon'ble Mr. Slack.

"The Hon'ble the Raja of Nashipur has referred once more to the importance of improving the water-supply in the mufassal, and has urged Government to assist the District Boards for that purpose. This question is a hardy annual; it comes up every year in the course of the Budget debate. This may be partly due to the fact that the Budget is presented at the beginning of the hot weather, when the necessity for good water is most felt—just as complaints in the papers about the defects of the Calcutta supply are more common at that time than at any other, though the supply is as good then as at any other time. The Hon'ble Raja is aware that the Government fully sympathises with his desire to see every village provided with a proper supply of wells and tanks. Orders were issued in 1896 that every District Board should spend at least Rs. 5,000 a year on water-supply, and I have from time to time given figures to show what has been done. In 1898-99 District Boards excavated 83 tanks and 388 wells at a cost of Rs. 76,000, and improved 1,214 old ones at a cost of Rs. 55,000, the total expenditure being Rs. 1,31,000. This was exclusive of large sums expended annually by municipalities in the construction and maintenance of regular water-works and the sinking and excavation and improvement of wells and tanks. But the notion that the Government can by any action on its part provide the people with an adequate supply of good water is an absolute chimera. Nothing can be done except by the people themselves. Last year I pointed out that almost every village in Bengal possessed one or more suitable tanks or wells which, if properly looked after, would provide all that is required. In 1896 it was pointed out that in 1882 Government gave a grant of one lakh for water-supply in Nadia, yet it produced no material effect. What is wanted is that the zamindars and the villagers themselves should re-excavate and maintain existing tanks. A doctrine of self-help is usually distasteful; but in this vitally important matter there is no other possible remedy.

"Another point referred to by the Hon'ble the Raja of Nashipur is as to the provision of residences for Munsifs, and I think the same point was taken by the Hon'ble Babu Boikanta Nath Sen, who is dissatisfied with the provision of Rs. 15,000 which we have been able to make for this purpose. It was also referred to by the Hon'ble Babu Surendranath Banerjee, who wanted to know what had been done with a similar provision of Rs. 15,000 made in last year's Budget. This is an old question which is not free from difficulty. On a former occasion a good deal of hesitation was felt as to whether Munsifs would really like to live in houses built for them for which they would have to pay rent. They cannot be expected to pay more than Rs. 20 or Rs. 25 a month by way of rent, which would restrict the capital cost of building residences for them to some Rs. 3,000 or Rs. 4,000, and it is exceedingly difficult to provide a suitable house at so small a cost. Something has been done in this direction, but very little. Last year it was proposed to build five of these residences—one at Satkania, two at Patuakhali, one at Jamalpur, and one at Bhola. At the first of these places difficulties arose about a site which it took a whole year to settle, and nothing was done beyond collecting materials. I hope the difficulties which have arisen about these residences will be overcome and that they will be completed without further delay. At Jamalpur the District Judge suggested a project, but the matter is still under consideration. At Bhola the arrangement proposed was to construct a new double munsifi, and to make over the old one to the Munsifs as their residence. The Munsifs, however, are opposed to this, and nothing has been done except the collection of materials, and some of the money has been given to the District Board. We have Rs. 15,000 this year for the same purpose, and we propose to construct one residence at Gumla, a new sub-division in the Ranchi district. The remainder of the money, some Rs. 10,000 or Rs. 11,000, will be spent in constructing other residences for Munsifs at places to be settled by the Judicial Department. I can hold out no hope that the grant for this purpose will be raised to Rs. 50,000, as the

Hon'ble Babu Surendranath Banerjee desires it should be. I admit that Rs. 15,000 is a small sum for such a purpose; but with our reduced grant for Public Works there is little chance of an increased allotment.

"The Hon'ble Babu Boikanta Nath Sen, referring to the proceeds from Stamps, suggested that the revenue from non-judicial stamps was underestimated. This is a matter of opinion. I hope the Hon'ble Member may prove to be right, but all I can say is that the estimate has been based on the figures of the past. I will explain our reasons for the estimate. The actual figures for each year since 1894-95 were as follows:—

'In 1894-95, Rs. 44,92,000; in 1895-96, Rs. 45,43,000; in 1896-97, Rs. 51,03,000; in 1897-98, Rs. 50,13,000; and in 1898-99, Rs. 44,70,000. For 1899-1900 the revised estimate is Rs. 46,75,000, and for 1900-1901 the estimate is Rs. 46,75,000.'

"Now it will be seen that there was a large and sudden rise in 1896-97 and 1897-98. These were the famine years, when people had to sell and mortgage their property to an unhappily large extent, and that always leads to an increase of revenue from non-judicial stamps. When the effects of famine cease, the Stamp Revenue drops. These years were followed by two years of prosperity—1898-99 and 1899-1900; and in the first of these years the whole of the abnormal increase was swept away, and the general Stamp Receipts fell even below those of 1894-95. For next year we have taken the Budget at the same figure as the revised estimate for the past year. This may be too cautious, but it is a wise caution. Even allowing for the effect of the Stamp Law of last year, it will not be prudent to take a higher estimate; but if the Hon'ble Member proves right, I shall be the first to rejoice.

"The same Hon'ble Member referred to the subject of the Excise Revenue, and so also did the Hon'ble Babu Surendranath Banerjee. Both these Hon'ble Members noticed the increase under the head of Excise of 2½ lakhs in the revised estimate of 1899-1900, and the Hon'ble Babu Surendranath Banerjee expressed a very strong doubt whether the increase was really due to the greater prosperity of the people,—in fact he denied that it was so. The Hon'ble Babu Boikanta Nath Sen referred to some figures of consumption and compared the figures for 1898-99 with the previous year, and said there was an increase in the total consumption of 19 per cent. I am not sure whether the Hon'ble Member referred to the figures for distilleries only, or to distilleries and outstills together. The figures of the latter are of no value, because we have no knowledge of the consumption at outstills; they are obtained from the *adkar's* accounts, which are utterly unreliable. [The Hon'ble Babu Boikanta Nath Sen said:—"I did not refer to outstills. I referred to distilleries only."] In that case I may say that the figures in connection with distilleries alone are perfectly correct. In 1898-99 there was an increase of 19 per cent. as compared with the consumption of the previous year. He suggested in anticipation that I might attribute the increased consumption to increased population, and he doubted whether I could show an increase in the population to the extent of 19 per cent. I am not going to say anything of the kind. The sole reason for the increase in 1898-99 as compared with the previous year is that the year 1897-98 was the year of the great famine, when the Excise Revenue suffered more than any other branch of the revenue. If the Hon'ble Member will recollect, I said last year that, as compared with the previous year, there was a falling off of 6½ lakhs under Excise, wholly due to the famine. The Excise Commissioner in his last report said that the full effect of the famine resulted in a loss of 17½ lakhs, spread over three years. According to Mr. Gupta's calculation the revenue in the ensuing year ought to have amounted to 149½ lakhs, whereas according to the estimate now made it is only 140 lakhs. If the calculation of Mr. Gupta, who is a most experienced and capable Excise Officer, is correct, the revenue this year is 9½ lakhs less than it would have been but for the famine. The Hon'ble Member also asked for information as to the number of distilleries and outstills, and he expressed the hope that there has been no increase in the numbers. The number of distilleries is 30, and it has been the same for some years past. But what I think he means is the number of distillery shops. The numbers for the years he has asked for were—in 1897-98, 1,193; in 1898-99, 1,186; in 1899-1900, 1,180; and in 1900-1901, 1,066, which shows that there has been a steady decrease in the number. One thousand and



sixty-six represents the number of shops settled for the current year; it does not represent the total number sanctioned for the current year. The number of outstills also shows no signs of increase. In 1897-98 the number was 2,018; in 1898-99, 2,076; in 1899-1900, 2,046; and in the current year it is to be 1,918. I may mention that the total number of outstills and distillery shops in Bengal taken together is about one-half of the corresponding number in the North-Western Provinces.

"The Hon'ble Babu Boikanta Nath Sen referred to the estimates of receipts under the heads of Excise, Provincial Rates, and Assessed Taxes, and he expressed a doubt whether it is justifiable to show an increase under these heads, because it would afford an inducement to the officers engaged in those departments to work up to those figures. The same remark was made with regard to the estimate of penalties under Assessed Taxes. On these points I may say that we framed these estimates in a distinctly cautious manner. In the estimate of Excise Revenue, we took exactly the figures of the revised estimate of 1899-1900. The revised estimate of the past year was 140 lakhs. We shall possibly get an increase, but we have not taken credit for it. Under the head of Provincial Rates the increase is only Rs. 6,500 under Public Works Cess. Under Assessed Taxes an increase of Rs. 80,000 is provided for, of which half a lakh represents the normal rate of increase, and Rs. 36,000 is a special item owing to the transfer to Calcutta of the Bengal-Nagpur Railway. If it is admitted that these estimates have been cautiously framed and that we may really expect to receive the sums shown in our estimate, does the Hon'ble Member really suggest that we should enter lower figures in order to discourage officers from doing their best to realise the revenues? When the Hon'ble Member frames his own municipal budget, he estimates the amount he expects to realise irrespective of the effect his estimates may have on the municipal establishments.

"The same Hon'ble Member addressed a very impassioned appeal to Your Honour to make a larger grant on account of the Nadia rivers, and he contended that the Government ought to provide funds for making the channel navigable throughout the year. I am not an Engineer, and I find it rather difficult to reply to the Hon'ble Member, but I have obtained some information from Mr. Horn. He points out in the first place that a part of the reduction in the expenditure is due to reduction in the establishments. Rupees 23,000 less has been estimated on this account than last year. Mr. Horn considers that any greater expenditure will be a mere waste of money under present conditions, and he advises that we should wait until we see what the working power of the large dredger ordered out by the Port Commissioners proves to be. If it is found likely to be successful, it is possible that it might be transferred to the Bhagirathi, and the *chur* which extends to a distance of four miles from the mouth of the river may be cleared away. The Hon'ble Member says the clearing away of the *chur* is urgently wanted on sanitary grounds, and that the Government ought not to grudge the money; that it might affect the success of the Berhampore water works, and might even ultimately affect the Port of Calcutta. I can assure the Hon'ble Member that if there is any danger of such disastrous results, the Government will not grudge any money that may be found necessary to prevent such a catastrophe, even if it extended to many lakhs of rupees; but for the present we must be guided by our expert advisers.

"There is one point with reference to the head of Excise to which I have omitted to refer. The Hon'ble Babu Surendranath Banerjee asked that a column might be inserted showing the number of outstills and the receipts from them, distinguishing outstill liquor from distillery liquor. I may inform the Hon'ble Member that they are shown under the first minor head 'License and Distillery fees and duties,' which includes both. They are lumped together in this statement. With reference to the request of the Hon'ble Member to have these shown separately, I may say that we are not at liberty to alter any minor heads in the Budget; these are settled by the Government of India, and it is contrary to rule to make any changes. But the information the Hon'ble Member wants may reasonably be furnished, and I will undertake to introduce a separate entry distinguishing distillery liquor from outstill liquor.

"The Hon'ble Dr. Asutosh Mukhopadhyaya referred to the fees and charges in connection with Pleadership examinations, and showed that the amount of fees received largely exceeded the expenditure. This point has been dealt with by my hon'ble friend the Chief Secretary. The course followed here is the same as that which is adopted in England. Fees to admit to examinations are, as a general rule, put high, so as to deter people from entering their names unless they have a real desire to pass the examination. If it were not so, the number of unsuccessful candidates would enormously increase, and useless work would be multiplied many times over. It is certainly desirable to keep out from the examination all those who have really no chance of passing.

"The Hon'ble Babu Surendranath Banerjee referred to the decrease under the head of 'Wharf rents.' This is a small matter. The total receipts this year are estimated at Rs. 9,000, while last year's estimate amounted to Rs. 12,000. I cannot say whether there will be a decrease. We framed this estimate on the basis of the average receipts of the previous three or four years.

"The Hon'ble Member also said that there was an increase in salaries in the Customs Department. There is no real increase. There is an increase under the head of 'Preventive Service' and also a large increase under the head of 'Allowances.' The increase in the Preventive establishment is due to Exchange Compensation, which was not formerly allowed to members of this establishment. Only last year final orders were passed by the Government of India admitting a certain number of these officers to the benefit of Exchange Compensation, which under the old rules the bulk of them did not get. This accounts for an increase of some Rs. 6,000. The increase under the head of 'Allowances' is due to our showing in the accounts the fees received for passing goods through the Custom House after office hours and on holidays. There has been no change in these; but until last year these receipts and the corresponding payments were not shown in the accounts at all.

"Then under the head of 'Interest' the Hon'ble Member wished to know whether we are making provision for larger loans to Municipalities. In the original draft of the Budget we did provide for a large increase on account of loans to Municipalities and District Boards. But we propose and the Government of India dispose. The demands on the Government of India were so great that they are obliged to reduce our estimates from 8 lakhs to Rs. 2,75,000. We give 1½ lakhs to Darjeeling, Rs. 50,000 to Patna, Rs. 50,000 to Monghyr, and Rs. 25,000 to Bhagalpur.

"Then the Hon'ble Member referred to the receipts from Canals. The explanation I have obtained from the Public Works Department is that the receipts from both the Orissa and Midnapore Canals have been affected by the opening of the East Coast Railway, and that some falling off may be expected to occur.

"Another point which has been referred to is the increase in salaries under the head of 'Stamps.' The explanation is that the Superintendent of Stamps and Stationery receives an incremental salary, rising from Rs. 1,000 to Rs. 1,500 per mensem. He will receive one increment next year.

"The whole increase of Rs. 2,000 in the Civil Secretariat is due to contingencies, mainly on account of telegrams. We are continually getting telegrams, and have to issue telegrams continually in connection with the plague.

"I think this covers all the points which have been raised by Hon'ble Members. But there is one matter which I am surprised to find no Hon'ble Member has referred to to-day and with regard to which I should like to say a few words. I refer to the provision which has been made on account of plague. Last year we were able to give to District Boards and Municipalities, who spent money on account of the plague, the sum of Rs. 5,60,000, being partly a refund of contributions made towards the maintenance of inspection camps, and partly in recoupment of expenditure they had incurred on local measures. Plague unfortunately is still with us, and not only have inspection camps which have been established to be maintained, but in consequence of the spread of plague throughout parts of the Patna district, and in the district of Monghyr, Municipalities and District Boards have had to incur larger expenditure than before. Last year in Your Honour's speech in this Council you explained why it was wise and expedient that local bodies should bear their share of the cost, and you pointed out that if this was not done those local



bodies would not make provision for the rainy day which must come, and that when it did come, they would spend their money with the magnificent disdain of economy which always characterises those who put their fingers in some body else's pockets. They have hitherto discharged their duties in this matter with fairness and discretion. Patna has spent a large sum of money. The number of deaths there is represented by the large total of 15,000; establishments have been multiplied on an extensive scale, and the charges of the District Board have been extremely heavy. And so also, but in a less degree, it has been in the district of Saran, and to some extent also in Monghyr. We hope that there are some signs now of the plague decreasing, and that in another year it may pass away. On the other hand, in the rains there may be a recrudescence of plague; therefore we must be prepared to assist local bodies who may have incurred expenditure to prevent their resources being crippled. A sum of Rs. 2,85,000 has been provided under the head of 'Medical' on account of plague, Rs. 70,000 of which must go to meet charges which the Government will bear in any case on account of the pilgrim camp, on special plague establishment, and on the protection of the Port of Calcutta. That will leave the sum of about two lakhs available, which may either be devoted to remitting charges on account of inspection camps, or may be given as grants-in-aid to those local bodies which have suffered most. We have come to the conclusion that it is best not to distribute the money available to the several local bodies in the form of a refund of their contributions towards the Camps; and that it will be best utilized in giving assistance at the end of the year to those District Boards and Municipalities which have suffered most. We last year gave a grant of Rs. 30,000 to the Saran Municipality, and it is probable that we may have this year to give a grant to the District Board of Patna.

"In conclusion, I have to express my acknowledgments to Hon'ble Members who have given me and my fellow-Secretaries some notice of the points about which they intended to speak."

THE HON'BLE MR. OLDHAM said:—"As mentioned by the Hon'ble the Chief Secretary I undertook to reply about arbitration because of the way in which the question has been raised, and because I have had some special experience of the subject. It will be remembered that last year my hon'ble friend Raja Shashi Shakhareswar Roy read an extract from a report which, as Commissioner of Chittagong, I had written in 1893, describing the plan followed by Mr. N. K. Bose, who was then Magistrate of Noakhali, for utilising panchayats; and the Hon'ble Raja asked if the panchayati system of Bengal could not be restored in some such fashion. If he had continued the extract and read my criticisms on Mr. Bose's scheme some discussion might have been saved, for I pointed out that it had no intrinsic vitality, but altogether depended for its working on Mr. Bose himself. It was not a system of arbitration as that word is generally understood, but panchayats were used for sifting criminal complaints before they were formally entertained by the Courts, and thus the stipendiary Courts were saved a great deal of labour. But Mr. Bose thought that from this plan a fuller panchayati system might be developed and made use of throughout the Province. I knew that he might be safely left to work his scheme because he was my friend and trusted colleague, but when the very same year he was promoted from Noakhali, the truth of my anticipations regarding its character was proved sooner than I thought, for he was succeeded by another Statutory Civilian who, though just as full of interest and energy, took a different view about this matter, and Mr. Bose's plan speedily fell into complete disuse. Apart from this, the general answer given on the subject by Mr. Bolton last year still seems to be in every way effective. He acknowledged that the principle of arbitration was most attractive, as was the word itself, but he pointed to the practical difficulties in the way of any enforced general resort to it. There were mechanical difficulties connected with buildings and furniture and stationery—difficulties about establishments and the serving of processes; and about records, and the preservation of the principle of *res judicata* and the prevention of matters which had been decided being re-opened. I think he referred too to what may be called the invidious aspects of the case—the

difficulty of finding disinterested persons in the villages to act as arbitrators, and the still greater difficulty of finding persons who were qualified to laboriously enter into an intricate case instead of acting on impressions, and able to write a judgment. Though the Hon'ble Raja remembers these arguments and has not revived his proposals, my hon'ble friend Babu Surendranath Banerjee, who has reproached him for not doing so, appears to have forgotten them. The question has now been revived here, because of my hon'ble colleague Mr. Toynbee's reference to it in the Imperial Council. But Mr. Toynbee did not propose any detailed scheme or use the word panchayat. He drew attention to the great drain upon the resources of the people of which the large amounts yielded by Court-fees were evidence, and hoped, as we all hope, that some means might be found, by affording facilities for arbitration or otherwise, for saving the people from some part of this drain. But as regards the establishment of panchayats for arbitration, if Mr. Bolton's arguments seem too abstract and academic to my hon'ble friend who so often expresses his preference for concrete instances, let me give him two concrete instances. You will remember, Sir, that in the year 878 agrarian disturbances broke out in the Deccan which were so serious and protracted as to require the appointment of a Special Commission to enquire into their causes, and thereafter the enactment of special legislation for the protection and relief of the peasantry. Prominent among these measures were provisions for arbitration, and when in 1894, their working came to be reviewed, when Your Honour was in Council, it was found that they had been altogether inoperative, so much so that they have been allowed to drop out of the amended legislation on the subject. My second instance is much nearer home. In 1855 there was a bloody agrarian rebellion in Bengal, in the very heart and centre of the territories under the Lieutenant-Governor. For months it convulsed the extensive region which is the subject of Sir William Hunter's well-known book, 'The Annals of Rural Bengal,' and it was only put down by the use of a very large military force and after a heavy loss of life. It was then that Lord Dalhousie laid his masterful hands upon the area of disturbance. He pronounced that the causes were in civilised measures having been applied far too fast, and his remedy was to resort to one of these exceedingly reactionary measures against which my hon'ble friend so constantly protests; and in order to carry it out he had passed a short law which saved the peasantry of this region from the operation of the ordinary laws, and left them otherwise to be governed by rules framed by Government. One of these rules was to exclude the intervention of all pleaders and lawyers and another was to provide for arbitration. In 1896, after over forty years working of them, the results of these arbitration provisions were enquired into, and they were found to have absolutely failed because the people would not resort to them, and they could only be called successful when the arbitrators sat within the shadow of the Courts, and under the control of the Courts. Is that the kind of arbitration which is desired? To any one who reflects, the reasons for these failures and disappointments are not far to seek. Why should the people who in any case have to pay, be left to the decisions of interested fellow-villagers when they can obtain the judgments of more or less expert professional Judges, who are paid for giving them justice?

"The other questions referring to matters under my administration have been answered by Mr. Baker, but I wish to amplify the reply given as regards Excise in one respect. The brief explanation we noted for estimating our increased Excise revenue was the greater prosperity of the people, and my hon'ble friend Babu Surendranath Banerjee, referring to this said 'I am one of the people, and I deny that their prosperity is increasing. On the contrary.' My hon'ble friend will acquit me of any desire to be sarcastic at his expense, but I seize on his words as a vivid illustration of a theme which I have often harped upon in the debates in this Council, and as shewing how narrow, how partial, how absolutely exclusive and how intensely aristocratic is the section or circle which is represented by those who claim to be Indian representatives. Who are the people? We were speaking of the millions of Bengal, my friend was speaking only of his own people. We admit and we deplore the increasing poverty of the middle classes, but when we speak of the people we do not mean only the high and cultured Aryans whose ancestors came to



Bengal, whether as conquerors or missionaries, it is immaterial now to discuss, but also of the horny-handed sons of the soil who earn their living by the labour of their hands. These are not my hon'ble friend's people but they are the people of the country of his birth, and infinitely more in numbers. It is their prosperity which we count on as increasing, and it is increasing quite apart from the absence of famine. My hon'ble friend sought for corroboration from me in another point drawn from my experience of the Corporation, and I now am able to draw on the same source for evidence of what I say. He will remember that last year, before he and his 26 friends deserted us, we had in the Corporation to raise the pay of the carters and other menials, not because more pay was needed for their wants, but because they demanded it and were so well off that they would not serve unless they got it. This is a sample of the kind of increased prosperity on which our estimate is based, and also indicates who are the people whom we have in view."

THE HON'BLE THE PRESIDENT said:—"I have listened with interest to the very varied and many-sided discussion which has taken place to-day. As I listened, certain remarks which I made last year came back to my memory. In all this animated variety of suggestion, I have not once, except perhaps from my hon'ble friend, Babu Surendranath Banerjee, heard the still small voice of economy. That was a welcome voice for which I opened my ears last year. It was in vain, and I fear that it is not in Council that this voice will often be heard. Nevertheless, it has to be sought and found, and I know of no method so effective for the purpose as that of the decentralisation, upon which the Supreme Government has adjusted its relations with the Local Governments. To this I will presently refer; but meanwhile I have to acknowledge the manifold suggestions for higher expenditure, which have been presented to my Government in the debate of to-day. Sometimes the suggestions reiterate proposals that have been answered before. The memories of official answers are as short as the course of official researches is long. More often, perhaps, an Hon'ble Member hopes, like the importunate widow, to gain his end by much protesting. But for most of the recommendations I will frankly admit that there is much to be said, and if the Local Government had an indefinite balance, it would have the cheerful duty of an indefinite expenditure."

"Unfortunately, as Hon'ble Members know, that is just what the position of the Government is not. Its balances were swept away by famine. Famine had not been surmounted when there befell the worst earthquake of modern times. The earthquake reconstructions and repairs had not been finished, when there came plague. Plague has gravely increased and we have in addition to meet the heavy expenses entailed by the landslips of last autumn in the Darjeeling district. Not in my time will the Lieutenant-Governor have those ample balances which were the happy privilege of former times. The resources of the Province must be husbanded and expended with the greatest circumspection."

"As I said, many of the suggestions made by my hon'ble colleagues would be excellent suggestions if we had the money. We have not, and we must limit our expenditure to the most absolutely necessary items on our list. These, according to our judgment, have been stated to you in the Budget, and I have not observed that any suggestion has been made that one of the newer proposals is more important than and should have precedence of the Budget proposals."

"I said last year that I regarded feeder roads as of the first importance for the development of the Province, and as the complement of the railway lines which are rapidly spreading over it. To this policy we steadily adhere. Plague, threatenings of distress, and landslips have stood in the way, but if the provision which caution requires under these heads should prove to be in excess of requirements, the road schemes are ready to which the funds can be immediately diverted."

"In the construction of these I trust to receive effective help from some of the District Boards. Their finances have received substantial assistance by the aids to which the Financial Secretary has referred—the grant for plague expenditure and the adjustment of the expenses of cess collections. But I am ready to admit that the finances of some of them are straitened, and reconsideration of the Provincial Assignments is needed. To ensure a just reconsideration, you must know definitely what are the calls upon them, and how far

they have fulfilled the duty of faithfully raising the full income which the law gives them." These details take longer to ascertain than I was prepared to believe, but when they are ready, the reconsideration of which I have spoken will be carefully given.

"I spoke of the virtues of decentralisation as an aid to economy. This is quite clearly the direction in which we must move in Bengal. Whether it is a local board or the head of a department that propounds a project, it makes a singular difference whether the propounder is trying to get all he dares from a central authority, or is making the most of what he has already got. These are the directions in which we have begun to proceed. If it were possible to apply the principle to this Council, I am not sure that many of the suggestions we have heard might not vanish unexpressed, and we should lose the interest of many eloquent addresses. The Council, however, serves a different purpose. It gives the valuable opportunity of the public statement of the desires of communities, big or small, and if the Government have larger claims on them, for which these must stand aside, they may rest assured that these representations are not unnoticed or unappreciated. I have to express, as the Hon'ble Mr. Baker did, my pleasure at the extreme courtesy and consideration with which this Budget has been discussed. The Council is adjourned *sine die*."

The Council was then adjourned *sine die*.

C. E. GREY,

CALCUTTA;  
The 29th May, 1900.

Offg. Assistant Secretary to the Govt. of Bengal,  
Legislative Department.